

107
U.S. CUSTOMS BUDGET FOR FISCAL YEAR 1995

Y 4.G 74/7:C 96/4

U.S. Customs Budget for Fiscal Year...

HEARING
BEFORE THE
**COMMERCE, CONSUMER, AND MONETARY
AFFAIRS SUBCOMMITTEE**
OF THE
**COMMITTEE ON
GOVERNMENT OPERATIONS**
HOUSE OF REPRESENTATIVES
ONE HUNDRED THIRD CONGRESS
SECOND SESSION

MARCH 10, 1994

Printed for the use of the Committee on Government Operations



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U.S. CUSTOMS BUDGET FOR FISCAL YEAR 1995

THURSDAY, MARCH 10, 1994

HOUSE OF REPRESENTATIVES,
COMMERCE, CONSUMER, AND
MONETARY AFFAIRS SUBCOMMITTEE
OF THE COMMITTEE ON GOVERNMENT OPERATIONS,
Washington, DC.

The subcommittee met, pursuant to notice, at 10:10 a.m., in room 2203, Rayburn House Office Building, Hon. John M. Spratt, Jr. (chairman of the subcommittee), presiding.

Present: Representatives John M. Spratt, Jr., Gene Green, Christopher Cox, and Stephen Horn.

Also present: Thomas S. Kahn, chief counsel; Faye Ballard, clerk; and Jane Cobb, minority professional staff, Committee on Government Operations.

OPENING STATEMENT OF CHAIRMAN SPRATT

Mr. SPRATT. Good morning. I would like to welcome all of our witnesses today, particularly the Commissioner of Customs; and, Mr. Noble, we very much appreciate your coming and being prepared to testify and to answer our questions.

Our Commerce, Consumer, and Monetary Affairs Subcommittee meets today to examine the Customs Service, its operations, and its budget. Today, we have three focal points in mind.

First, we want to examine the Customs Service's budget request for fiscal year 1995 and especially those resources that are earmarked for commercial trade enforcement. That is one focal point.

Second, we want to examine in particular something that is of special interest to me, funding for textile and apparel trade enforcement as a subset of a larger issue, and that is, how much do we have in the way of resources to commit to trade enforcement as one of the objectives of the Customs Service, and what are the potential rewards, the potential results, not just for the sector that is protected when trade laws are enforced but also for the fix for revenues that might be obtained for the Treasury if we had more vigilant, more pressing enforcement.

Third, we want to take a look at the Customs implementation of the Chief Financial Officer [CFO], something that is close to the concerns of this committee because it is a piece of legislation that originated here. We have had hearings before about it, and we will just serve notice that every time you come here we are going to be asking about the Chief Financial Officers Act's implementation and

also about your status with getting an auditable financial return out of the General Accounting Office.

Let me just say a few words briefly about each of the focal points for our hearing today. The Customs Service has two different but related responsibilities. The historic responsibility of Customs is to collect duties and therefore to protect to some extent American industry from unfair competition from abroad.

Customs over the years has taken on a number of other responsibilities, and particularly in the last 10 to 12 years they have taken on some pressing responsibilities that nobody can quibble with—narcotics trafficking, surveillance, high-tech weapons export—things of this kind that are critically important to the security of this country, and therefore to some extent I suspect they have probably tended to subordinate and push to the back burner these other traditional duties in terms of our commercial trade enforcement.

Customs is responsible for seizing transshipped goods, for counterfeit watches, for looking after intellectual property right violations, a whole range of issues that are very vexing, and nobody would sit here on this committee having held hearings before and deny that you don't have a challenging set of responsibilities that gets ever more complicated.

One particular topic which I mentioned that I would like to dwell upon today, at least for part of the hearing, is textile enforcement. As you know, the President promised a number of us in a letter that he wrote shortly before the vote on NAFTA that his administration would dedicate an additional \$15 million to the enforcement of textile and apparel regulations and rules, as well as related competitiveness trade matters. The President added that Customs would hire 50 additional employees, exclusively, to the extent practicable to work on non-NAFTA textile enforcement problems, quota surveillance, transshipment problems, other problems with fraud and evasion—50 dedicated to that purpose—and then 50 additional employees who would be earmarked solely to NAFTA-related textile and apparel enforcement problems.

The President also pledged that Customs' commercial program associated with both the enforcement of NAFTA and other textile and apparel enforcement "will be held harmless from our Governmentwide effort to reduce employment levels." The administration recognized that here is a special subset that requires increasing vigilance and we are not going to encroach upon it as we try to shrink the size of the Federal Government. We would like to hear from the Customs Service how the President's pledge is being implemented.

And finally, we will ask for an update on Customs' progress in implementing the Chief Financial Officers Act. This hearing gives us the chance to follow up a hearing we held on October 5 when we first took up this issue.

Since then, the General Accounting Office has issued reports pinpointing critical internal management problems at Customs, and Customs has requested 12 additional personnel specifically to improve their financial accounting systems, and we would like to find out if that is enough and how they are progressing toward the goals that have been set out in the CFO Act. To its credit—and I

give Customs a lot of credit—Customs has been working hard and in close collaboration with GAO to resolve these problems. Nevertheless, we remain concerned with the long period Customs needs before complying with the CFO Act.

One issue that I would like to press with Customs today is whether you are putting your best foot forward in presenting your budget to Congress, whether you are actually making it known to key Members and to the Congress as a whole, that you are the second ranking agency when it comes to revenue collection, that your resources are stretched and pressed because of these additional responsibilities that have been loaded upon you, and that a good case can be made that if you can get the right people in the right places, you can generate more resources, more revenues for the Federal Government and more than pay for whatever it costs to add on these additional people.

We are delighted to have you today, and before we turn to you for your testimony, I want to give our ranking member, Mr. Cox, an opportunity to make some comments himself.

Mr. Cox.

Mr. Cox. Thank you, Mr. Chairman. I want to thank you for convening this hearing today to discuss the U.S. Customs Service's role in implementing our trade policies.

As a member of the Budget Committee, I am particularly interested in Customs' fiscal year 1995 budget request. As a southern Californian, I am particularly interested in Customs' implementation of NAFTA.

As one of the early supporters of the CFO Act, I am very interested in your experience with implementation of that law, and I am most interested in Customs' role in the war on drugs.

I would also like to welcome George Weise back to the Hill. Your tenure as staff director of the Ways and Means Subcommittee on Trade gives you a unique perspective on the evolution of U.S. trade policy during the past two decades, and I appreciate your taking the time to share your expertise.

As we all well know, the United States is entering a new era in our hemispheric trade relations. We will no longer be at odds with our neighbors. The past decade has brought with it a sea change in our attitude toward our friends to the south in particular. NAFTA will normalize this new epic in trade relations. Mexico already is our third largest trading partner, barely behind Japan, and by removing trade barriers NAFTA is expected to boost Mexico into second place within the next year or two.

As the United States moves to adapt to these new realities, ensuring the most efficient use of Customs' financial resources should be a primary goal. Last year, the General Accounting Office released its analysis of the roles respectively of Customs and the Immigration and Naturalization Service. GAO said that "Customs and INS have a long history of interagency rivalry coupled with ineffective cooperation and coordination pertaining to border crossing operations, particularly the United States-Mexican border." The report actually recommended combining the functions of Customs and INS. I would be interested to hear the director's opinion on this particular proposal.

Even more than a drug enforcement agency, judging by several statistical measure, Customs has been on the front lines of international drug interdiction, and this remains, as I said, one of my top concerns. The administration's recently submitted budget gives more pause about the ability of the Customs Service to continue to play the important role it should in keeping illegal drugs out of the United States.

Under the fiscal year 1995 budget, the Customs Service will lose a total of \$57.4 million in its air and marine interdiction fund. That is a reduction of nearly one-third. The cuts are divided into two parts; \$16.4 million will be cut from salaries and expenses. This will require significant layoffs of pilots, radar technicians, and other highly trained professional personnel; \$41 million will be cut from operations and maintenance, spare parts, fuel, acquisition, and other similar activities. Five Blackhawk helicopter, 21 twin-engine aircraft, and 4 FLIR-equipped planes will be mothballed. I have also learned that fully one-half of the Customs Service's 150 seaborne pursuit air tracking vessels will be sidelined and that P-3 flight time will be cut by 875 hours a year.

Given that taxpayers have already spent nearly \$30 million each for retrofitting six P-3's, this seems penny wise and pound foolish. Worse, brand new Citation pursuit aircraft flight hours will be cut by more than 40 percent. I want to be sure that we do not unconditionally surrender in the war on drugs. I would be most interested in your comments on how border interdiction as one aspect of our U.S. drug policy can be most effectively maintained by Customs.

Customs has always been in the front line in the war on drugs, and I would be willing to bet there are a number of Customs officials as concerned with the President's cuts as I am. Concern isn't enough. Today, we are talking about the lives and minds of our children. We simply can't afford to retreat in this battle against drugs, and I hope that we can work together with the Customs Service to reverse these devastating cuts, and I pledge my support for those efforts.

I look forward to hearing from you today on all of the subjects that the chairman and I have mentioned.

Mr. SPRATT. Thank you very much, Mr. Cox.

We have two distinguished witnesses, as I said, to discuss the issues that Mr. Cox and I have just outlined. One is the Assistant Secretary of Treasury for Enforcement, Mr. Ronald K. Noble, and the other is the Commissioner of Customs, George Weise.

Today marks the first occasion for both of you to appear before our subcommittee, and I want to extend a warm welcome to both of you. We have had a long history of a close working relationship with Customs and Treasury, and we look forward to maintaining that relationship.

Our first witness, Secretary Noble, oversees all Treasury law enforcement bureaus and offices. That includes the Customs Service, the Secret Service, Bureau of Alcohol, Tobacco and Firearms. He has been the associate professor of law at NYU since 1989. He also served as assistant U.S. attorney in Pennsylvania and was the deputy assistant attorney general at the Justice Department.

Our second witness, Commissioner Weise, is no stranger to Capitol Hill. He was the staff director of the Ways and Means Sub-

committee on Trade before coming here, and he is no stranger to Customs either.

I believe you began your career at Customs in the Baltimore office as an import specialist in 1972.

So we are delighted to have both of you. You both bring excellent credentials to this hearing.

Mr. Noble, we will turn to you first, and I think you have both submitted prepared testimony, so just as a matter of formality, we will note in the record that both of your prepared testimonies are made part of the record so that you can summarize them if you wish.

STATEMENT OF RONALD K. NOBLE, ASSISTANT SECRETARY FOR ENFORCEMENT, DEPARTMENT OF TREASURY, ACCOMPANIED BY JOHN SIMPSON, DEPUTY ASSISTANT SECRETARY FOR TRADE, TARIFF, AND REGULATORY AFFAIRS

Mr. NOBLE. Mr. Chairman, on behalf of the Department of the Treasury and my colleagues, the U.S. Customs Service, I am honored to appear before you for the first time this morning. We also have with us at the table Sam Banks, the Acting Deputy Commissioner of Customs; and to my right, John Simpson, the Deputy Assistant Secretary for Trade, Tariff, and Regulatory Affairs.

You, Mr. Chairman, mentioned in your opening remarks about the dual role of the U.S. Customs Service. One important aspect of that dual role deals with trade enforcement. It is an important aspect of Customs' mission both from the Department's and the administration's perspective.

The commitments made by the President in his November 16 letter to you, to which you referred, with respect to resources for textile enforcement have been honored. The President's fiscal year 1995 budget for Customs includes the following new initiatives: \$18 million and 186 FTEs for NAFTA/textile enforcement and \$7.2 million for trade enforcement. One hundred of the new positions are for textile enforcement: 50 positions for non-NAFTA textile enforcement, and 50 for NAFTA textile quota enforcement. The remaining 86 positions are for NAFTA nontextile enforcement. These resources are two-thirds greater than the President's \$15 million commitment to this area last fall.

There are strong enforcement mechanisms designed into the NAFTA. There are going to be easy-to-verify rules of origin based on the "yarn forward" principle. There are new provisions for Customs officers to inspect factories in other NAFTA countries and to track back through the production process to verify claims for NAFTA preference. So there won't only be the opportunity to go to a factory or a manufacturing locale and examine the site, we also will be able to examine the business records as well.

U.S. Customs is improving its ability to detect violations through analysis of trade patterns. Also the domestic textile industry provides good information on suspected violations. In addition, we have people who aren't on the Government payroll who have an interest in ensuring that everyone plays fairly and plays by the same rules, and that is the competitive spirit of U.S. producers and manufacturers and retailers.

We expect effective cooperation from the Mexican Government, especially in the area of the textile industry and enforcement of NAFTA textile provisions. Because of strong Mexican commitment to ensuring NAFTA benefits for its own textile industry, we are better off than we otherwise would be.

As mentioned, in the area of enforcement of textile quotas, Customs is adding resources, 50 new positions in fiscal year 1995, to strengthen enforcement of non-NAFTA textile quotas. Customs is also creating new import specialist work teams to provide better analysis of textile trade flows. We are trying to work smarter and work better.

The new jump teams, that is, the individuals who would actually travel to foreign locales, are in Miami, New York, and Los Angeles. They are being created to allow Customs to perform short-notice verification that textile goods are, in fact, produced in the country claimed as the country of production.

The additional resources for textile enforcement included in the President's budget will provide Customs with the strongest textile enforcement program it has ever had.

From a policy level, and as Assistant Secretary of the Treasury for Enforcement, I am personally committed to ensuring that these efforts, what the chairman has referred to as the historic efforts of Customs in the area of revenue collection and commercial trade enforcement, continue to be emphasized by Customs. During an era and time of lean economic resources, it is important that we avoid duplication where possible, and, in that area, Customs is the only entity that can provide that sort of enforcement in the area of trade enforcement in the U.S. Government, and they have done a tremendous job in that area as far as the Department of Treasury is concerned and the Office of Enforcement.

At this point, I would turn to my colleague, George Weise, and ask him to make brief introductory remarks, Mr. Chairman.

Thank you.

[The prepared statement of Mr. Noble follows:]

Statement of Ronald K. Noble

**Assistant Secretary
(Enforcement)**

**U.S. Department of the Treasury
Before the Subcommittee on Commerce, Consumer, and Monetary Affairs
House Committee on Government Operations**

Mr. Chairman and members of the Subcommittee:

I am pleased to be here this morning to discuss the FY 1995 budget for the United States Customs Service, and particularly the program we have for enforcement of textile and apparel trade laws. Enforcement of our textile quota agreements has long been a high priority for the Customs Service and it continues to be a high priority under President Clinton's Administration. I am accompanied here this morning by George Weise, who is the Commissioner of Customs, and Sam Banks, the Acting Deputy Commissioner of Customs.

Let me begin by discussing the resources we have in the FY 1995 budget for textile enforcement, and then I would like to go on to discuss enforcement of the textile provisions of the North American Free Trade Agreement and textile quota enforcement generally.

FY 1995 BUDGET FOR TEXTILE ENFORCEMENT

The FY 1995 budget for the Customs Service submitted by the President contains \$18 million additional dollars and 186 new positions for commercial enforcement. Of this, 100 positions are for textile and apparel enforcement. The total resources provided for commercial enforcement generally and for textile enforcement particularly exceed the levels promised by the President in his November 16 letter to you and other members of Congress, which committed to an additional \$15 million for enforcement of textile rules as well as other competitiveness trade matters.

Customs estimates that the resources for textile enforcement will be split about evenly between enforcement of the NAFTA textile provisions and other textile enforcement. Of course, these estimates are based on current information. Customs is prepared to reallocate resources to respond to new information as we receive it.

Customs is also developing plans to ensure that these resources are used in the most effective manner. Commissioner Weise will be pleased to discuss these plans in detail.

ENFORCEMENT OF NAFTA TEXTILE PROVISIONS

Let me turn to enforcement of the textile provisions of the NAFTA. Clearly, I cannot

promise that enforcement will be perfect and that no circumvention of the NAFTA will ever occur. But we are optimistic about our ability to be highly effective in enforcing the NAFTA because the mechanisms for effective enforcement were designed into the NAFTA itself. Unlike either Canada or Mexico, the U.S. had enforcement people at the negotiating table from the very beginning, in every important negotiating group, to ensure that enforcement considerations were taken into account. In fact, the lead U.S. negotiator for NAFTA rules of origin and rules for customs administration was from Treasury's enforcement office.

1. Rules of Origin - One of the principal enforcement concerns in negotiating the NAFTA was that the rules of origin, that is, the rules for determining whether goods are eligible for tariff preference, be easy to verify. What we got in the NAFTA satisfies that concern. The NAFTA origin rules are modeled on the rules of the U.S.-Canada Free Trade Agreement. Essentially, they define eligibility for preference in terms of physical transformation of materials rather than in terms of value added in the region, which is difficult to verify.

As you know, the textile rules of the NAFTA embody what is known as the "yarn-forward" principle. With some exceptions, textile and apparel goods qualify for preference if the yarn from which they are made is formed in the NAFTA area and all subsequent processing is performed within the area. While under an origin rule that specifies a minimum regional value added require weeks or even months of effort by trained accountants can be required in order to verify eligibility for tariff preference, verification of the textile origin under the "yarn-forward" principle in most cases involves simply assuring ourselves that the yarn is produced here. That fact can be confirmed relatively quickly and it can be confirmed by someone who is not a trained accountant. A visit to factories where goods and materials are produced, plus a check of purchasing, shipping, and production records maintained by the exporter and his suppliers, can give us reliable evidence of whether textile goods meet the requirements of the NAFTA.

Additionally, the verification can be repeated as frequently as necessary. This is not the case for origin rules that require extensive, and expensive, financial audits.

2. NAFTA Provisions for Verification -

In addition to having textile rules that allow easy verification, the NAFTA also provides new mechanisms for verification. Chapter Five of the NAFTA provides that each of the NAFTA Parties can send teams of its own customs officers into other NAFTA countries to verify claims for NAFTA tariff preference. The NAFTA refers to this, in a deliberately nonprovocative way, as "verification visits". In the course of a verification visit the customs officers may inspect the factory, interview company officers, and examine any records that are relevant to their inquiry. They may track back through the production process, for example, to the stage of yarn production, until they are satisfied that they have verified a claim for NAFTA preference. They may also send detailed questionnaires to manufacturers in other NAFTA countries to obtain needed information. Failure of a NAFTA

manufacturer to respond to a questionnaire or to agree to a verification visit entitles the NAFTA Party conducting the verification to suspend preferential treatment for that manufacturer.

In addition, all NAFTA Parties have agreed that any person in their territories who falsifies a NAFTA certificate of origin will be treated as having made a false statement to his own government, and may be penalized under domestic laws. This is a feature of NAFTA that was not present in the U.S.-Canada Free Trade Agreement.

Finally, in order to ensure that non-NAFTA goods are not simply transshipped through a NAFTA country, the Customs Service has the ability to send in on short notice what are called "jump teams", to verify that textile products claimed to be produced at a factory are in fact produced at that factory.

3. Detection of Violations

Another factor that bolsters our confidence in our ability to enforce the NAFTA is the dependability of information we get from industry sources about suspected violations. Our experience over many years satisfies us that in the textile industry no one lets a competitor get away with anything unfair. Industry sources keep us aware not only of major, across-the-board violations but also of violations in very specific product sectors.

It is a time-honored axiom in law enforcement that an alert citizenry is the best defense against crime. Nowhere among our citizenry is there greater alertness than among our textile industry.

4. Cooperation of Mexican and Canadian Governments

Finally, we have every reason to expect that our NAFTA partners will be fully cooperative in enforcing the textile provisions of the NAFTA. We have already enjoyed a good experience with Canada on FTA enforcement matters. We expect the same sort of relationship with Mexico.

I believe you know that during the NAFTA negotiations the Government of Mexico took very strong positions with respect to protection of the benefits of NAFTA textile trade for the NAFTA Parties. Recently, Mexico has taken unusually strong measures to ensure that Chinese textiles are not entered into Mexico in circumvention of antidumping duties that they impose on Chinese fabric. It is clear that the Mexican Government and the Mexican textile industry have no intention of allowing non-NAFTA textiles goods transshipped through Mexico to exploit the NAFTA tariff benefits for which Mexico has paid with other NAFTA concessions.

I might also point out that during the administration of President Salinas the Mexican Government has taken extraordinary steps to upgrade competence and reduce corruption

within the Mexican customs administration. We have made every effort to help them modernize their customs systems and in some areas they have actually surpassed us.

NON-NAFTA TEXTILE ENFORCEMENT

Beyond enforcement of the tariff preference rules of the NAFTA, we are also taking steps to strengthen our ability to deal with circumvention of our textile quotas. There are several factors that make administration of textile quotas difficult. The most important is that our textile quota program is comprised of a set of bilateral agreements with producing countries, negotiated under the auspices of the Multifiber Agreement. Consequently, we can't simply count the total number of units entering the U.S. in each quota category to determine whether a quota is filled. We must assign each shipment to the quota allocation of a particular country. Obviously, when a country's quota in a particular category is about to be filled there is a strong incentive to transship those goods through another country.

As one might expect, textile transshipment occurs primarily in a range of quota categories that get filled early. However, currently most of our problems have been with sheets and shop towels from Pakistan; and knit shirts and sweaters, woven shirts and pants, and nylon jackets from China. There is transshipment in other product sectors but the main problems are here.

The first element of our enforcement plan is to get better cooperation from other countries, both textile producing countries and countries through which textiles are transshipped. We are having some success with this effort. For example, Pakistan has agreed to report suspicious shipments, such as shipments to bank consignees and to unlikely destinations. They are cooperating because, among other reasons, they don't want multiple charges against their quotas as a penalty if their textile products are transshipped.

We also have a continuing effort to identify the countries through which transshipments occur. We have transshipment occurring in over fifty countries, some covered by textile agreements with the U.S., some not covered. As a general matter, domestic producers in agreement countries oppose transshipment because they don't want their quotas lost to transshipments. However, certain agreement countries have quotas that exceed their export capabilities, or have no quotas on the types of merchandise being transshipped, and we know that to some extent they are being used to transship goods produced in other countries.

Several countries have offered statistics on shipments from China and Pakistan through their territories to the United States, and Customs continues to improve on its capability to analyze trade data to detect changes that indicate transshipments.

With the Uruguay Round Agreement the system of bilateral quota arrangements will be phased out. However, as long as those quotas are in place we are committed to vigorous and effective enforcement.

COUNTERFEITING OF UNITED STATES CURRENCY

As you requested, I would also like to discuss briefly the threat posed to United States by new technologies for counterfeiting.

Prior to 1991 the primary overt security features for United States currency were:

- distinctive paper of 100 percent natural fiber with imbedded red and blue security fibers;
- obverse and reverse of the notes were printed by engraved/intaglio printing. This allowed for a distinctive, fine line design; and
- seals and serial numbers were typographic. This is a distinctive printing style which is indented into the paper.

In 1991 the first new design elements for enhanced security were added to U.S. currency. The new features, a denominated security thread and microprinting, were introduced primarily to thwart counterfeiting on advanced color copiers and have been very effective. However, continuous developments in the field of reprographics and the increasing threat of international counterfeiting require continued research and development into new security features for the future. These efforts are coordinated with other government agencies through the Advanced Counterfeit Deterrence Steering Committee (ACDSC), which is composed of representatives from the Department of the Treasury, U.S. Secret Service, the Bureau of Engraving and Printing, and the Federal Reserve System.

The ACDSC is part of the Four Nations Advanced Counterfeit Deterrence Group. The members of this group are the Bank of England, the Bank of Canada, the Reserve Bank of Australia, and representatives from the United States. Some of the low-level deterrents used by these other nations are:

- | | | |
|----|----------------------------------|---------------------------------------|
| -- | Watermarks: | Canada and United Kingdom |
| -- | Windowed Security Thread: | United Kingdom |
| -- | Optical Variable Device: | Canada |
| -- | Hologram and Shadow Vignette: | Australia |
| -- | Multiple Color Background Tints: | Canada, United Kingdom, and Australia |
| -- | Plastic Substrate: | Australia |

The Bureau of Engraving and Printing (BEP) currently is chairing a new design task force under the ACDSC that will recommend new security measures to the Secretary of the Treasury during 1994. These recommendations will result from research and evaluation

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conducted by BEP in cooperation with the National Academy of Sciences. Additionally, a Securities Technology Institute has been established by BEP that will be located at an internationally renowned laboratory and will focus its efforts on the development of innovative security features for the next century. There has as yet been no decision as to what might be recommended and, for obvious reasons, I would be reluctant to discuss in open session what options might be under consideration.

Mr. Chairman, this concludes my prepared remarks. Commissioner Weise also has a statement, I believe, and then we shall both be pleased to answer questions.

Mr. SPRATT. Mr. Weise.

STATEMENT OF GEORGE J. WEISE, COMMISSIONER, U.S. CUSTOMS SERVICE, ACCOMPANIED BY SAM BANKS, ACTING DEPUTY COMMISSIONER; LEONARD S. WALTON, DIRECTOR, OFFICE OF FOREIGN OPERATIONS, OFFICE OF ENFORCEMENT; AND THOMAS E. DIAFORLI, DIRECTOR, NATIONAL FINANCE CENTER

Mr. WEISE. Thank you, Mr. Chairman. It is a real pleasure to make my first appearance before this subcommittee. I am still getting used to being on this side of the table instead of on the other side, but we are making that adjustment.

I would like to first of all comment that you mentioned my background. I did spend some time on Capitol Hill. I did start in Baltimore as an import specialist many years ago. I want to get on the record the fact that I spent 1 year in the textile commodity line of the 3 years that I spent as an import specialist.

But one of the things I want to say is that when Mr. Noble and I first met, when I was going through the interview process to get this position, we were both, I think struck, by the complementary nature of our background and experience. My background and experience is primarily in the commercial area and on Capitol Hill. Mr. Noble has spent a good deal of his career in law enforcement as a prosecutor and a teacher. One of the things that I am so pleased about is that he has been so fully supportive as the Assistant Secretary, and he oversees not only our enforcement that relates to narcotics smuggling and all the other important missions there, but he has been tremendously supportive, as has the Department, in the commercial side as well. We work together as a team, and we have had the kind of support we need.

Clearly, as already pointed out by Mr. Cox, we are always being pushed from different directions about where the emphasis ought to be. Mr. Noble and I have appeared before the House Appropriations Committee and the Senate Appropriations Committee just in the last week. One subcommittee in the House was telling us we ought to be expending more of our resources than we are on the commercial fraud area. The Senate was asking how many additional agents we could put on narcotics enforcement if we eliminated these commercial fraud initiatives. These are the kinds of dilemmas that we always face.

But I can assure you that I, as Commissioner, and the Assistant Secretary and, more important than both of us, Secretary Bentsen is absolutely committed to having a balanced, effective program in both areas.

We obviously are operating in an environment of shrinking resources, and, frankly, you have made reference to the cuts that we had to absorb in our budget with regard to the air and marine program. There is no question that those are significant cuts, and we are going to have to work awfully hard to make sure we can have as effective a deterrent with those reductions in our air and marine program as we have had before. That is going to be a tremendous challenge.

But when you look at what this administration is attempting to accomplish to try to make significant strides in reducing our fiscal

deficit and look at the number of cuts that were absorbed by many, many agencies in the Federal Government, we have to be very pleased, thanks largely to you, Mr. Chairman, and others who argued very, very loud and very clear that we do need some additional resources in this important area of commercial enforcement. We actually ended up with a proposed fiscal year 1995 budget of a proposed increase of roughly \$30 million as opposed to many agencies who took significant cuts in their overall program.

So we feel that we can do the job, we can do a balanced approach in both the commercial area and in the important law enforcement area in terms of narcotics smuggling and money laundering, but within the budget that we have been provided. Obviously, we need to create greater efficiencies than we have now, and we are attempting to do that.

We are looking to try to restructure the entire Customs Service in terms of looking at our operations at our headquarters, our regions, and our districts, and see if we can't squeeze the organization down and try to free up resources within our existing structure to allow those resources to be put out in the field to carry out our fundamental mission. We have a task force that has been looking very long and hard at this who will hopefully be making recommendations to me in the not too distant future, and the kinds of changes that we are looking at are going to be significant.

We are going to see—at least, I hope we are going to see the final outcome of this—at least a one-third reduction in the size of our headquarters operation, the potential elimination of all of our regional offices, a dramatic reduction in the number of district offices we have, and all of the resources that will be freed up from that kind of consolidation will be reapplied to carrying out our fundamental mission at the ports and at the RAC's and SAC's offices so that we can do a better enforcement job under existing budgets.

We are trying to be fiscally responsible, and we are trying to meet the challenges that are put before us. We know that it is difficult, but we think it can be accomplished with your support and the support that we are having from the Department.

With regard to the CFO, I just would like to make a few comments, and then both of us would be very pleased to respond to questions.

I have had one experience with sitting down with Secretary Bentsen in a not very delightful setting right after the GAO report came out which criticized the Customs Service and the Internal Revenue Service very loudly, shall we say. Secretary Bentsen sat down with the Commissioner of the IRS and myself, and he made it absolutely clear to us that, "We would not have a report that looks like that next year, will we?" he asked the question, and both of us made it clear to him that, as far as we are concerned, we are going to do everything in our power to ensure that we do much better.

I think you are aware, Mr. Chairman—and I appreciate the comments in your opening statement—that these problems were a long time in the making. Unfortunately, there is going to be some time in turning them around completely before we can get an absolutely clean report. We have been working diligently with the General Accounting Office; we have been trying very hard to ensure that peo-

ple within the Customs Service recognize that this isn't only the responsibility of our CFO in headquarters, but it involves the entire Customs organization.

We have had meetings with our assistant commissioners and our regional commissioners, our district directors, and our SAC's. We have had people from GAO and from the Treasury Department, and Office of Management come down and talk to us to help educate us on what is needed to make dramatic improvements in this.

I am rather frustrated, as you are, because I am a person that likes to see very quick results. I am told that we are probably 2 years away from getting an absolutely clean rating as far as the CFO Act is concerned, but I am committed that we are going to make tangible progress in that interim period. We have set an action plan with timetables and deadlines where we are going to try to see dramatic improvements in the outcome of the CFO analysis.

The unfortunate thing is, in order for us to get a clean bill of health, we have to do a fundamental restructuring of our accounting system, and that is a computer improvement that we are in the process of making. It does take an awfully long time for us to accomplish that.

But I want to assure you, Mr. Chairman and this subcommittee, that we are absolutely committed to getting a clean CFO bill of record as quickly as we possibly can, and more than happy to talk about all the specific initiatives that we are taking to try to achieve that result.

With that, I would be pleased to respond to questions.

[The prepared statement of Mr. Weise follows:]

REMARKS BY GEORGE J. WEISE
COMMISSIONER
UNITED STATES CUSTOMS SERVICE
BEFORE THE
HOUSE COMMITTEE ON COMMERCE, CONSUMER AND MONETARY AFFAIRS
HEARING ON TEXTILE ENFORCEMENT
MARCH 10, 1994
10:00 A.M.
2203 RAYBURN HOUSE OFFICE BUILDING

MR. CHAIRMAN, THANK YOU FOR INVITING ME TO SPEAK TO YOU ON BEHALF OF THE UNITED STATES CUSTOMS SERVICE REGARDING OUR ENFORCEMENT ROLE AND OUR IMPLEMENTATION OF THE CHIEF FINANCIAL OFFICER ACT. I WOULD LIKE TO BEGIN MY STATEMENT BY DISCUSSING THE CUSTOMS ENFORCEMENT MISSION.

THE CUSTOMS SERVICE IS RESPONSIBLE FOR ENFORCING A MULTITUDE OF U.S. LAWS AT OUR NATION'S BORDERS WHILE ALLOWING THE FREE FLOW OF LEGITIMATE TRADE TO ENTER OUR COMMERCE UNIMPEDED. CONSIDERING THE \$527 BILLION IN GOODS AND THE 448 MILLION TRAVELLERS THAT CROSS OUR BORDERS ANNUALLY, OUR MISSION IS COMPLEX AND DEMANDING. PROBABLY THE MOST DIFFICULT JOB THAT I HAVE AS COMMISSIONER IS TO BALANCE THE COMPETING DEMANDS FOR OUR LIMITED RESOURCES. THIS MEANS BALANCING OUR OBLIGATION TO ENFORCE THE LAWS WITHOUT HINDERING TRADE, BUT IT ALSO MEANS BALANCING RESOURCES BETWEEN OUR MANY ENFORCEMENT MISSIONS. THE TWO ENFORCEMENT AREAS THAT COMMAND THE GREATEST ATTENTION ARE OUR EFFORTS TO STEM THE FLOW OF ILLICIT NARCOTICS AND OUR EFFORTS TO PREVENT UNFAIR AND ILLEGAL TRADE PRACTICES THAT ENDANGER THE U.S. ECONOMY. MY MESSAGE TODAY IS THAT WITH THE PRESIDENT'S PROPOSED FY 95 BUDGET, I BELIEVE WE WILL HAVE THE RESOURCES TO DELIVER EFFECTIVELY ACROSS-THE-BOARD ON OUR MISSION AREAS.

IN A PREVIOUS HEARING, WHICH WAS HELD ON OCTOBER 4, 1993, ACTING DEPUTY COMMISSIONER SAM BANOS WAS GIVEN THE OPPORTUNITY TO SPEAK TO THE COMMITTEE REGARDING THIS ISSUE IN RELATION TO THE THEN PENDING NORTH AMERICAN FREE TRADE AGREEMENT LEGISLATION AND THE CUSTOMS MODERNIZATION ACT.

SINCE THAT TIME, AS YOU WELL KNOW, THIS LEGISLATION HAS BEEN ENACTED AND I WISH TO ASSURE YOU THAT CUSTOMS IS ENFORCING NAFTA AND IS WORKING DILIGENTLY WITH THE TRADE TO ENSURE FULL COMPLIANCE WITH U.S. LAW. AS STATED IN OUR PREVIOUS TESTIMONY, WE BELIEVE THAT NAFTA AND OUR MOD ACT STRENGTHEN OUR ENFORCEMENT CAPABILITIES WITH REGARD TO TEXTILE AND OTHER HIGH RISK COMMODITY TRANSSHIPMENTS. NAFTA PROVIDES US WITH GREATER LEVERAGE IN REGARD TO EXCHANGING INFORMATION WITH MEXICO AND CANADA WHICH WILL ENABLE US TO MONITOR COMPLIANCE LEVELS PRESCRIBED BY LAW. IT ALSO IMPOSES GREATER RESPONSIBILITY ON IMPORTERS TO PROVIDE CUSTOMS WITH ACCURATE AND CORRECT INFORMATION REGARDING THEIR ENTRY OF MERCHANDISE. THIS COUPLED WITH ADVANCES WE HAVE MADE REGARDING THE ANALYTICAL USE OF DATA FROM OUR AUTOMATED SYSTEMS WILL IMPROVE OUR ABILITY TO FOCUS ON, TARGET AND TRACK CATEGORIES OF VIOLATIONS UNDER OUR TRADE ENFORCEMENT STRATEGY.

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I WOULD NOW LIKE TO HIGHLIGHT A FEW OF THE INITIATIVES THAT WE ARE CURRENTLY WORKING ON TO ILLUSTRATE OUR COMMITMENT TO TRADE ENFORCEMENT. FIRST LET ME SAY THAT I AM GRATEFUL FOR THE INCREASED RESOURCES MADE AVAILABLE TO CUSTOMS FOR THIS PURPOSE AND LOOK FORWARD TO RECEIVING THE OFFICIAL "APPROVAL" THROUGH THE APPROPRIATIONS PROCESS.

CUSTOMS IS COMPLETING THE DEPLOYMENT TO THE SOUTHWEST REGION OF 300 INSPECTORS MADE AVAILABLE BY CONGRESS IN FY 93, INCREASING OUR INSPECTIONAL CAPABILITY ON THE SOUTHERN BORDER TO 1815 POSITIONS. THERE ARE CURRENTLY 275 IMPORT SPECIALISTS IN DISTRICTS ALONG THE SOUTHERN BORDER WHOSE PRIMARY FUNCTION IS TO ENFORCE TRADE LAWS, INCLUDING NAFTA, THROUGH VERIFICATIONS OF COUNTRY OF ORIGIN, PROPER REVENUE COLLECTION, AND THE ELIGIBILITY OF COMMERCIAL SHIPMENTS FOR TRADE PREFERENCES. WE HAVE MADE IT A TOP PRIORITY TO FURNISH THESE COMMERCIAL OFFICERS WITH THE TOOLS TO PERFORM TARGETING AND ANALYSIS. WE HAVE ALSO ASSURED THAT THEY ARE SUPPORTED BY REGULATORY AUDITORS AND LABORATORY FACILITIES WHEN FURTHER SCRUTINY OF SHIPMENTS IS REQUIRED.

MY STAFF HAS WORKED DILIGENTLY TO IDENTIFY THE GREATEST AREAS OF RESOURCE NEED IN ORDER TO ADDRESS THE THREAT TO OUR DOMESTIC TEXTILE INDUSTRY. MY STAFF EXAMINED OUR CURRENT ALLOCATION OF RESOURCES, AND ANALYZED TRENDS IN IMPORTS AND WORKLOAD DEMANDS. IN ADDITION, THEY IDENTIFIED DISTRICTS/GEOGRAPHIC AREAS OF

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GREATEST IMPACT AND ARE FORMULATING PLANS ACCORDINGLY. I AM PREPARED TO BEGIN THE HIRING OF POSITIONS IN THIS FISCAL YEAR WHICH WILL ADDRESS NAFTA AND TEXTILE TRANSHIPMENT ENFORCEMENT. CUSTOMS WILL USE A PORTION OF THESE ASSETS TO ESTABLISH NEW "JUMP TEAMS" WITH A FOCUS TOWARD NON-NAFTA TEXTILE TRANSHIPMENT. JUMP TEAMS HAVE BEEN USED SUCCESSFULLY IN THE PAST TO VISIT SITES WHERE THE TEXTILES ARE SUPPOSEDLY MANUFACTURED TO DETERMINE IF THE FACTORY IS CAPABLE OF PRODUCING THE NUMBER OF GARMENTS THAT ARE BEING SHIPPED TO THE UNITED STATES. THERE HAVE BEEN NUMEROUS INCIDENTS WHERE OUR JUMP TEAMS HAVE FOUND THAT THE OVERSEAS MANUFACTURING SITE COULD NOT HAVE MET THE PRODUCTION NUMBERS. OVER THE PAST 3 YEARS, WE HAVE CONDUCTED 27 JUMP TEAM VISITS TO OVER 32 COUNTRIES AND INSPECTED OVER 1,000 "MANUFACTURING" SITES. THESE TEAMS HAVE BEEN RESPONSIBLE FOR \$600 MILLION IN TRANSHIPPED TEXTILES BEING CHARGED BACK TO THE CORRECT COUNTRY OF ORIGIN. BASED ON THE PROPOSED BUDGET, WE INTEND TO CONDUCT 42 JUMP TEAM VISITS IN FY 95 ALONE, WHICH REPRESENTS A DRAMATIC INCREASE IN ENFORCEMENT.

CUSTOMS ALSO WILL INCREASE THE USE OF TECHNOLOGY WHICH WILL ENABLE OUR TEXTILE SPECIALISTS AND INVESTIGATORS TO USE MORE EFFECTIVELY THE AUTOMATED TRADE DATA TO IDENTIFY HIGH RISK IMPORTERS AND FOREIGN MANUFACTURERS. ONCE THE HIGH RISK IMPORTERS ARE IDENTIFIED, THE ADDITIONAL RESOURCES WILL ENABLE OUR OFFICERS TO SPEND MORE TIME IN TARGETING AND REVIEWING ENTRY

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DOCUMENTATION FOR POTENTIAL VIOLATIONS, MAKE MORE ONSITE/INDEPTH REVIEWS AT THE IMPORTER'S PREMISES, AND PERFORM PHYSICAL EXAMINATIONS OF THE MERCHANDISE BASED UPON THE THREAT. ONCE HIGH RISK FOREIGN MANUFACTURERS ARE IDENTIFIED, WE WILL DISPATCH JUMP TEAMS.

CURRENTLY, CUSTOMS IS WORKING CLOSELY WITH THE DEPUTY ASSISTANT SECRETARY OF COMMERCE, RITA HAYES, ON A PILOT PROJECT TO BE DEPLOYED AT SELECT PORTS OF ENTRY. THIS PROJECT WILL ENABLE CUSTOMS TO CHANGE OUR TRANSACTION APPROACH TO PROCESSING TEXTILES THROUGH MORE EFFECTIVE METHODS TO TARGET AND PURSUE HIGH RISK/HIGH THREAT SUSPECT IMPORTATIONS. IT IS DESIGNED TO MAKE MAXIMUM USE OF OUR TRADE DATA IN ORDER TO DEVELOP BASE LINE ACTIVITIES, IDENTIFY ANOMALIES TO THAT BASELINE, TARGET AND PURSUE HIGH RISK SHIPMENTS, PENALIZE VIOLATORS, AND DEVELOP A SERIES OF MEASUREMENTS TO EVALUATE THE EFFECTIVENESS OF OUR APPROACH.

WE WILL ALSO INCREASE THE PRESENCE OF OUR INVESTIGATORS AT "HIGH RISK" FOREIGN LOCATIONS IN ORDER TO CONDUCT MORE EFFECTIVE AND EXTENSIVE INQUIRIES AND ESTABLISH MORE COMPREHENSIVE WORKING RELATIONSHIPS WITH OUR FOREIGN CUSTOMS AND LAW ENFORCEMENT COUNTERPARTS. I WANT OUR EFFORTS TO RESULT IN ENFORCING THE LAW WITH REGARD TO BOTH THE U.S. IMPORTER AND THE FOREIGN MANUFACTURER/SUPPLIER. WE WILL ALSO INCREASE OUR INVESTIGATIVE

ACTIVITIES TO ENSURE THAT VIOLATORS ARE SUBJECT TO CIVIL AND CRIMINAL ACTIONS.

WE WILL ALSO BEGIN HIRING SPECIAL AGENTS, IMPORT SPECIALISTS, INSPECTORS AND AUDITORS TO ENSURE NAFTA IS EFFECTIVELY ENFORCED, ESPECIALLY REGARDING TEXTILE AND OTHER HIGH RISK COMMODITIES SUBJECT TO TRANSHIPMENT OR OTHER FRAUDULENT ACTIVITIES. HOWEVER, IN ADDITION TO PERFORMING A TEXTILE ANALYSIS WE LOOKED AT TRENDS IN IMPORTS FOR A SERIES OF COMMODITIES INCLUDING AGRICULTURAL PRODUCTS (PEANUTS, BEEF, ORANGE JUICE), FOOTWEAR, AUTOMOBILES, AUTOMOBILE COMPONENTS, TOYS, STEEL, CHEMICALS, AND ELECTRONICS. THESE COMMODITIES WERE CHOSEN EITHER BECAUSE OF THEIR SENSITIVITY TO U.S. TRADE INTERESTS OR BECAUSE OF THE COMPLEXITY OF THE RULES OF ORIGIN TO QUALIFY FOR NAFTA PREFERENCE. I AM INCREASING THE NUMBER OF CHEMISTS ASSIGNED TO OUR LABORATORIES IN ORDER TO PERFORM THE NECESSARY SCIENTIFIC ANALYSIS OF COMMODITIES TO SUPPORT OUR ENFORCEMENT EFFORTS.

THE ADDITION OF IMPORT SPECIALIST POSITIONS WILL BE USED TO ASSIST OUR EXISTING CADRE OF IMPORT SPECIALISTS IN PERFORMING APPROXIMATELY 200 COMPLIANCE VERIFICATION VISITS IN CANADA AND MEXICO TO ENSURE THAT THE NAFTA BENEFITS ACCRUE TO NORTH AMERICAN PARTICIPANTS, AND APPROXIMATELY 1200 VISITS TO U.S. IMPORTER PREMISES. THESE IMPORT SPECIALIST RESOURCES WILL BE JOINED BY ADDITIONAL AUDITORS WHO WILL BE FOCUSING THEIR ATTENTION ON THOSE

COMPANIES/INDUSTRIES WHICH IMPORT COMMODITIES REQUIRING GREATER SCRUTINY BASED ON THE COMPLEXITIES OF THE RULES OF ORIGIN IN ORDER TO CLAIM BENEFITS UNDER THE NAFTA. OUR SPECIAL AGENTS WILL JOIN THESE FORCES TO ENSURE THAT ANY ENFORCEMENT LEADS ARE FULLY INVESTIGATED.

MR. CHAIRMAN, I RECOGNIZE THE COMMITTEE'S CONCERN REGARDING THE TRANSSHIPMENT OF TEXTILES AND I APPLAUD YOUR OUTSTANDING LEADERSHIP IN THIS AREA. I, TOO, SHARE THIS CONCERN AND REALIZE THE IMPORTANCE OF ENSURING THE INTEGRITY OF OUR BI-LATERAL TEXTILE TRADE AGREEMENTS IN ORDER TO PROTECT AND PROMOTE DOMESTIC INDUSTRY. I WANT TO ASSURE YOU THAT I AM PERSONALLY DEDICATED, AS IS TREASURY, IN LIVING UP TO THE COMMITMENTS MADE TO YOU AND OTHER CONGRESSMEN REGARDING THE ENFORCEMENT OF NAFTA AND TEXTILE AGREEMENTS. WE BELIEVE THAT THE PRESIDENT'S FY 95 BUDGET WILL ENABLE US TO DELIVER ON THAT COMMITMENT AND I WILL INITIATE ACTIONS THIS YEAR TO REFOCUS EXPERIENCED PERSONNEL AND TO BEGIN HIRING ADDITIONAL STAFF. I AM ALSO COMMITTED TO AGGRESSIVELY CUTTING INTO THE ILLICIT PRACTICE OF TEXTILE TRANSSHIPMENT WHICH ARE TAKING JOBS AWAY FROM AMERICANS. MY GOAL IS TO ENSURE EFFECTIVE ENFORCEMENT OF ALL U.S. TEXTILE LAWS, WITH AN EMPHASIS ON TEXTILE TRANSSHIPMENT; TO ENSURE VIOLATORS ARE JUSTLY PUNISHED; AND TO PROVIDE OUR TRADE POLICY OFFICIALS AND NEGOTIATORS WITH THE INFORMATION TO MORE EFFECTIVELY DEAL WITH OTHER COUNTRIES THAT PERMIT SUCH VIOLATIONS TO OCCUR.

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MR. CHAIRMAN, IN YOUR INVITATION LETTER, YOU INDICATE ADDITIONAL INTEREST IN CUSTOMS IMPLEMENTATION OF THE CHIEF FINANCIAL OFFICER'S ACT. CUSTOMS, WHICH IS SECOND ONLY TO THE IRS AS A COLLECTOR OF THE REVENUE, IS COMMITTED TO ENSURING COMPLIANCE WITH THE ACT, PARTICULARLY BY PROVIDING THE ADMINISTRATION, THE CONGRESS AND THE PUBLIC WITH ACCURATE AND RELIABLE FINANCIAL STATEMENTS. WHILE IT IS CLEAR THAT IT WILL TAKE TIME FOR CUSTOMS TO ACHIEVE FULL COMPLIANCE WITH THE CFO ACT, CUSTOMS HAS AND WILL CONTINUE TO DEDICATE SUFFICIENT RESOURCES TO IMPLEMENT THIS LEGISLATION. FOR EXAMPLE, WHILE FULL INTEGRATION OF ALL ANCILLARY SYSTEMS MAY TAKE MORE THAN TWO YEARS, CUSTOMS TOOK THE INITIATIVE AND INSTALLED A NEW CORE FINANCIAL SYSTEM IN OCTOBER 1992. AS ADDITIONAL ENHANCEMENTS ARE DEVELOPED, THEY TOO WILL BE IMPLEMENTED IN ACCORDANCE WITH THE ACT. IN ADDITION, CUSTOMS ACTIVELY SOUGHT A PARTNERSHIP WITH THE GAO AND PLEDGES TO CONTINUE THIS PARTNERSHIP TO ENSURE THAT THE STATEMENTS ARE ADEQUATELY SUPPORTED BY COMPETENT DATA AND THAT AUTOMATED SYSTEMS INCLUDE APPROPRIATE CONTROLS TO GUARANTEE RELIABLE AND ACCURATE STATEMENTS.

AS A RESULT OF SOME OF THE INITIATIVES BETWEEN GAO AND CUSTOMS A COMPREHENSIVE PLAN HAS BEEN DEVELOPED TO REVIEW AND ANALYZE VARIOUS ACCOUNTING ISSUES INCLUDING REVENUE RECOGNITION, RECEIVABLES, UNCOLLECTIBLES, FIXED ASSET INVENTORIES, AND SEIZED AND FORFEITED PROPERTY. WITH THE ASSISTANCE OF OMB AND TREASURY,

CUSTOMS ALSO DEVELOPED PRO FORMA FINANCIAL STATEMENTS.

I RECOGNIZE THAT CUSTOMS FINANCIAL CONTROLS HAVE BEEN WEAK IN THE PAST. MANY OF OUR AUTOMATED SYSTEMS WERE DESIGNED TO MEET OUR OPERATIONAL NEEDS, BUT NOT OUR ACCOUNTING REQUIREMENTS. THESE SAME INADEQUATE SYSTEMS, LACKING SUFFICIENT INTERNAL CONTROLS AND ACCOUNTING REQUIREMENTS, CAUSED DIFFICULTY FOR US WHEN THE TIME CAME TO PREPARE AUDITABLE FINANCIAL STATEMENTS.

SINCE 1989 CUSTOMS HAS COMMITTED TO IMPROVING ITS FINANCIAL OPERATIONS AND HAS MADE SIGNIFICANT PROGRESS IN THIS AREA. A TASK FORCE WAS ESTABLISHED THAT ADDRESSED ALL OUTSTANDING FMFIA ISSUES AND REGULARLY REPORTS ITS PROGRESS TO THE DEPARTMENT. CUSTOMS ESTABLISHED MEASURABLE, CONCRETE PLANS, AND SLIPPAGE WAS RARELY PERMITTED. IN 1990, CUSTOMS PREPARED A FINANCIAL MANAGEMENT PLAN TO CAPTURE AND ASSIGN RESPONSIBILITY FOR CORRECTIVE ACTIONS VIEWED AS NECESSARY TO IMPROVE ITS FINANCIAL MANAGEMENT.

FOR MANY YEARS, CUSTOMS WAS UNABLE TO RECONCILE ITS COLLECTIONS AND DEPOSITS AND ITS APPROPRIATED FUNDS BALANCE WITH TREASURY. AFTER A VERY LABORIOUS PROCESS OF REVIEWING DOCUMENTS, ENHANCING SYSTEMS, AND WORKING WITH GAO AND TREASURY, CUSTOMS WAS ABLE TO CORRECT THIS SITUATION. SINCE DECEMBER, 1989 CUSTOMS COLLECTIONS AND DEPOSITS HAVE REMAINED RECONCILED EXCEPT FOR FOUR DIFFERENCES

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WHICH HAVE BEEN RESOLVED. MOREOVER, CUSTOMS HAS ALSO INSTITUTED TREASURY'S NEW CASH LINK PROGRAM, RECONCILED FISCAL YEAR 89 AND SUBSEQUENT FISCAL YEAR CASH ACCOUNTS WITH TREASURY, AND RECONCILED ALL PRIOR YEAR CASH ACCOUNTS WITH TREASURY IN 1991. WE CONTINUE TO RECONCILE OUR CASH ACCOUNTS ON A MONTHLY BASIS.

TO PREVENT DUPLICATE PAYMENTS, CUSTOMS TOOK STEPS TO IMPROVE DISBURSEMENT PROCEDURES INCORPORATING AND EXPANDING THESE INTO THE NEW CORE ACCOUNTING SYSTEM. IN ADDITION TO INCORPORATING EDIT CHECKS IN THE SYSTEM, AN INTERNAL REVIEW OF ALL DISBURSEMENTS IS CONDUCTED TO HELP IDENTIFY AND RESOLVE POTENTIAL DUPLICATE PAYMENTS.

AS A RESULT OF THE FIRST REQUIRED AUDIT OF THE CUSTOMS FORFEITURE FUND, WHICH HAD A NO OPINION FINDING, IMPROVEMENTS WERE MADE TO PERPETUAL AND PHYSICAL INVENTORY CONTROLS AND RECORDS. IN RESPONSE TO THESE IMPROVEMENTS, INDEPENDENT AUDITORS CONCLUDED THAT THE 1991 AND 1992 FINANCIAL STATEMENTS WERE PRESENTED FAIRLY.

IN DECEMBER 1990, CUSTOMS DEVELOPED A SERIES OF MANAGEMENT INFORMATION REPORTS, WHICH INCLUDED WHAT HAVE BECOME KNOWN AS "RED FLAG REPORTS". THESE REPORTS ARE DESIGNED TO PROVIDE OUR FIELD MANAGERS WITH INFORMATION ON COST, QUALITY, AND SERVICE OF OPERATIONAL PROGRAMS AT THE DISTRICT LEVEL. THESE REPORTS NOT

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ONLY DEMONSTRATE PERFORMANCE AGAINST NATIONAL AVERAGES OR THRESHOLDS, BUT POINT TO AREAS WHERE DEFICIENCIES IN PROGRAM PERFORMANCE MAY EXIST.

OTHER POSITIVE STEPS INCLUDE:

- REDUCING THE IMPREST FUND ERROR RATE TO LESS THAN 5 PERCENT OR 4 PERCENT BELOW THE EXPECTED ERROR RATE IN FY 92.
- RESOLVING MORE THAN \$3.2 MILLION IN OUTSTANDING TRAVEL ADVANCES.
- ENHANCING REVENUE AND RECEIVABLE SYSTEMS TO PROPERLY RECOGNIZE REVENUE AND IMPROVING THE MONITORING AND COLLECTION OF OUTSTANDING RECEIVABLES.

IN PREPARING CUSTOMS 1993 CFO FINANCIAL STATEMENTS AND THE RELATED REPORT, CUSTOMS HAS MET REGULARLY WITH GAO TO DEVELOP APPROACHES TO IDENTIFYING AND ADDRESSING THE SIGNIFICANT AUDIT ISSUES RELATING TO THE 1993 AUDIT OF CUSTOMS. WE HAVE JOINTLY DEVELOPED AN ACTION PLAN FOR THE 1993 AUDIT WHICH SPECIFIES THE PRIORITIES OF ISSUES WE WILL WORK ON AND LEVEL OF COMMITMENT WE ARE MAKING. CUSTOMS CURRENT EFFORTS TO ADDRESS THESE ISSUES INCLUDE:

- A COMPLETE PHYSICAL INVENTORY OF SEIZED PROPERTY WAS CONDUCTED AND THE RELATED ACCOUNTING RECORDS ARE BEING RECONCILED ACCORDINGLY.

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- ALL ACCOUNTS RECEIVABLES WERE IDENTIFIED AND PROCEDURES WERE DEVELOPED TO TEST ALL RECEIVABLES FOR VALIDITY AND ABILITY TO COLLECT.
- OUTSTANDING ADVANCES FOR COVERT OPERATIONS ARE RECONCILED QUARTERLY AND SPECIAL OPERATIONS PROCEEDS ARE BEING ACCOUNTED FOR PROPER DISCLOSURE ON THE FINANCIAL STATEMENT.
- A PHYSICAL INVENTORY WAS CONDUCTED OF PERSONAL PROPERTY. REAL PROPERTY EXISTENCE WAS VALIDATED THROUGH PROCEDURES ESTABLISHED BY GAO. IN ADDITION, VALUATION PROCEDURES TO COMPILE AND PRESENT THE VALUES OF PERSONAL AND REAL PROPERTIES WERE ESTABLISHED.
- CUSTOMS EMPLOYEES CONTINUE TO BE APPRISED OF THE SIGNIFICANCE OF THE CFO RESPONSIBILITIES IN PERIODIC BRIEFINGS BY MYSELF AND MY KEY MANAGERS.

WHILE I AM PROUD OF THE MANY POSITIVE STEPS THAT CUSTOMS HAS TAKEN TO IMPLEMENT STRICTER FINANCIAL CONTROLS, I AM NOT SATISFIED WITH THE STATUS QUO. I WILL NOT SETTLE FOR LESS THAN COMPLETE SUCCESS IN THIS EFFORT. THE RECENT FINDINGS INCLUDED BY GAO IN ITS REPORT ARE OF SERIOUS AND CONTINUING CONCERN TO ME, AND I PLEDGE TO YOU THAT CUSTOMS CAN AND WILL DO BETTER IN THE FUTURE. I HAVE CONSTRUCTED A TIME TABLE FOR THE IMPLEMENTATION OF SOLUTIONS AND FORWARDED IT TO GAO.

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MR. CHAIRMAN, OUR GOAL AT CUSTOMS IS AN AMBITIOUS ONE--WE WANT TO BE A MODEL AGENCY FOR THE ENTIRE FEDERAL GOVERNMENT, AN AGENCY CONSISTENTLY CAPABLE OF PRODUCING FINANCIAL STATEMENTS THAT ARE ACCURATE AND RELIABLE RESULTING IN A "CLEAN" UNQUALIFIED OPINION FROM THE AUDITORS. WHILE WE REALIZE THAT SUCH AN OPINION MAY NOT BE IN THE OFFING FOR SEVERAL YEARS, YOU HAVE MY ASSURANCE THAT CUSTOMS WILL REMAIN COMMITTED TO REALIZING THE GOALS SET FORTH IN THE CFO ACT AND THAT WE WILL CONTINUE TO WORK HAND-IN-HAND WITH GAO, OMB AND TREASURY TO MEET THOSE GOALS.

MR. CHAIRMAN, I REQUEST THAT MY STATEMENT BE ENTERED INTO THE HEARING RECORD. AT THIS TIME, I WOULD BE PLEASED TO ANSWER ANY QUESTIONS THAT YOU OR THE MEMBERS OF THE COMMITTEE MIGHT HAVE.

Mr. SPRATT. Thank you very much, both of you, for your introductory statements.

Let me turn first to this specific issue of the 186 additional personnel who are to be committed to commercial enforcement, 100 of whom go specifically to textiles, 50 for NAFTA-related textile apparel enforcement, 50 generally speaking.

When the commitment was made, it wasn't linked to passing a merchandise processing fee, and the way that merchandise processing fee is presented in the budget documents, they are juxtaposed. It is not clearly stated that there is a correlation or a necessary linkage between the two, but it seems to be implied. Do we have to pass a merchandise processing fee to get the 186 additional enforcement personnel?

Mr. WEISE. Mr. Chairman, this is a bit of a confusing issue, and I think a lot of folks are asking the same question. The Appropriations Committees are concerned as well. I should just step back and give you a little background and perspective, I think, on how we ended up with that situation.

The quick answer to your question, though is, I think it can be done with or without an increase in the merchandise processing fee, but that is a judgment that the appropriating committees also have to make sure they reach, and this is a decision that OMB is very much involved with. They will be having detailed discussions not only with the appropriating committees but with the Congressional Budget Office because we get into a whole question of scoring.

I think that perhaps the Customs Service was somewhat indirectly responsible for the linkage that ended up, and I just want to give you a little of the backdrop. As you indicated, I spent the last 9 years working for the Ways and Means Committee, where we embarked upon an initiative called "pay as you go" even before it became a mandate of the Congress. We wanted to make sure that any initiatives that were put forth that would cost the Federal Government money, would be offset in some way.

When I subsequently worked within the Customs Service, and put forth a recommended budget to the Treasury Department that ultimately went to OMB for fiscal year 1995 some months ago, I made it clear to the people within the Customs Service that we do have a fiscal deficit problem and we are not going to be embarking upon a lot of new initiatives that cost the taxpayer money unless we find ways to offset them.

We suggested in that initial submission many months ago, an appropriate area for offset for some Customs initiatives that we had put forth. They weren't all directly linked to the initiative that we are talking about now, there were some other initiatives that the Customs Service had put forth, but among them were additional resources for commercial trade law enforcement. We, in order to try to be fiscally responsible, suggested that since the merchandise processing fee was designed, as you know, to offset the cost of Customs' commercial processing, and that we felt that the amount collected under the existing fee was below what it cost us to process merchandise commercially, that here was an appropriate avenue to offset some of the initiatives that we put forth.

Now in our recommendation, it would have come directly to the Customs Service to have a direct offset. I think that is where the idea perhaps germinated.

But what happened, I think, in the long run is that the Office of Management and Budget was working very hard to put together what they felt was a responsible budget and trying to reduce the fiscal deficit, yet they had a commitment to have a new initiative based on the President's letter. I think they perhaps dusted this idea off and said, well, here's a linkage that we can perhaps put forth and make sure that we can expend the additional funds without making, further inroads and enlarging the fiscal deficit. So I can only presume that that is the way it came about.

There is still a lot of uncertainty as to whether there has to be that direct linkage. I am told that there can be a way that even without increasing the merchandise processing fee, that we can get fully funded for this trade initiative. We are hoping that we can find that way, but clearly it is going to be an issue that must involve OMB in this process as well.

Mr. NOBLE. And if I might add, the President, the administration, and the Secretary are committed to fulfilling the representations that we have made as to the additional positions you have described. So if for some reason there is a problem with the fee, that doesn't mean the President is not going to honor his very clear commitment to you, sir.

Mr. SPRATT. Thank you for that, and I am committed to supporting the fee. I am 1 vote in 435, but what its ultimate fate is I have no idea.

Going back to a theme I struck in my opening statement, however, it seems to me Customs needs to remind everybody, not least the Congress, because we had a vote on the floor just a few months ago where the Appropriations Committee's recommendation for Customs funding was cut by \$4 million. Some nominal amount, but nevertheless, it indicates that there is a message that is not coming through to Members of Congress.

Your total collections are estimated to go up from \$23.3 billion in fiscal year 1994 to \$25 billion in fiscal year 1995. So you are actually generating an additional \$1.7 billion for the Treasury, which ought to warrant some additional personnel to handle the collection of these funds.

Furthermore, in every compliance enforcement initiative of which I am aware that Customs has taken in the last 10 years, you have proven that where resources are concentrated on known areas of abuse, additional revenues can be generated by the enforcement effort.

I go back to Operation Tripwire. You may remember that initiative. It might have come out of your subcommittee at the time you were staff director. The idea there was to put additional resources in key ports where there were lots of textile apparel imports coming in. There were lots of suspected fraud, evasion, circumvention, and the suspicions were borne out several times over by the results of Operation Tripwire. I have forgotten exactly what it cost, but as I recall the ratio of revenues collected over and above the baseline to costs committed to the concentration in several ports was about 10 or 12 to 1 in that particular case. Not long after the report was

filed on it, this subcommittee made a trip up to Newark. We went to New York and to Kennedy. Then we went out to the Newark container ports and to Maher Terminal in particular, where we watched this processing come through. We sat down with a group of enforcement personnel—inspectors, import specialists, investigative types—a room full of people, and Doug Barnard, the chairman of this subcommittee at that time, invited them to let their hair down and just tell us what they thought. They said, we have only scratched the surface, fraud is rampant, and circumvention is everywhere; all you have got to do is look for it and you can find it. But they said that in the days when you were working as an import specialist in Baltimore in the early 1970's when we had about \$3 to \$4 billion of textile imports, they were opening 10 percent or more of the containers and physically inspecting those containers to see if the contents corresponded to the manifest.

It is not just a problem of transshipment we are concerned with, they told us then and they told us just a few days ago when the NTEU presented a sample of their employees to give us some bird's eye view of what is going on, they told us that misdeclaration of contents is still a serious problem, misvaluation of contents is still a serious problem, and that, by their estimate, only 1 percent of the containers is actually being opened up, and when they are opened up, they are finding lots of violations that would seem to warrant more opening.

Now the bottom line of this long oration is that it would seem to me that if you make the case, I think you have got a strong case to be made to the Congress and to the administration, OMB, and Treasury, that if you can get the people in the right places, you can generate the revenues not only to pay them but to add to the bottom line of the revenues collected by the Customs Service every year. Do you agree with that argument?

Mr. WEISE. I think it is an excellent argument. We have been making the argument. But clearly there are decisionmakers that look at dollars and cents on the piece of paper.

Mr. SPRATT. We had a little thumbnail indicator back in the early eighties that was effective with the Appropriations Committee. I think it was an alleged claim of marginal return of \$21 for every \$1 paid for each inspection type who was added to the ranks of the Customs Service. Do you have any sort of thumbnail indication of what the marginal return of each dollar expended might be?

Mr. WEISE. Mr. Chairman, over the years I have seen the number range anywhere from \$17 for every dollar expended up to about \$22. I don't have the precise number at my finger tips, but that is simply by dividing out the total revenue collected by the—

Mr. SPRATT. Will OMB buy that calculation?

Mr. WEISE. Mr. Chairman, I made that argument when I was staff director of the Ways and Means Committee, and it never quite got through.

One thing I would say is, I think, notwithstanding, that clearly we are a revenue-generating agency and there is some merit to saying that additional resources may result in increased revenue. I think it is also our responsibility in a time of fiscal constraint—we do have a very major problem facing this country—to help reduce this fiscal deficit, to help our children and our grandchildren.

I think it is our responsibility as managers to make sure that we are squeezing every dollar out of our existing resources, and that is where I feel, through this reorganization effort, we can make dramatic increases in the available resources, additional resources to do the job, without asking the American public for more funds to do it. That is one of the things that we are attempting to accomplish.

Mr. SPRATT. The relevant part of a report issued by this subcommittee in 1985 summarizing the results of Operation Tripwire was just pointed out to me. It says that Operation Tripwire proved to be extremely successful in identifying fraudulent textile and apparel imports. In New York on a budget of \$105,000, fines and penalties exceeding \$2 million were imposed in a relatively short period. New York was cited because at that time the whole city of New York, Newark Ports Authority, accounted for 50 percent of textile and apparel imports.

In Los Angeles, which accounted for 25 percent of the total imports, Tripwire produced on a budget of \$23,000 in additional task force dollars spent—produced the seizure of goods worth \$1,300,000 and civil penalties of \$1,595,000. So there is a tremendous return. But as the inspectors told us when we went to talk to them—the people who were on the Tripwire task force—we have just scratched the surface, it is rampant, and, as I said, we had just a sampling of these employees meet with us the other day and they gave us the same feedback, that there is tremendous fraud out there, it only has to be investigated more vigilantly to be detected.

Mr. NOBLE. Mr. Chairman, I would just follow up on my colleague's comments. What you are highlighting makes sense. The Department of the Treasury collects 90 percent of the revenues collected by the U.S. Government in the IRS and the U.S. Customs Service in particular. When you think about making cutbacks across the board, if you don't pause a moment to say, wait a minute, if we can generate revenues from the hiring of employees, then maybe we shouldn't simply have a target that treats, as far as sort of an analogy, each of our children the same. It is incumbent upon Commissioner Weise and me to begin to make the argument that you have already made with your example.

I know the IRS got an increase in auditors because they were able to persuade someone—I can't remember whether it was the Secretary and OMB or both—that for each examiner or auditor hired they could collect \$16 for every dollar invested in the hiring, and you have made a similar analogy. What George and I have committed ourselves to doing this year and beginning at the end of last year, is to make sure that we make the best argument we can.

Now I have to concede, to be candid and to be honest, I don't think I did that last year. I don't think I made the best return on investment argument on behalf of my components. I am learning a lot of these points now. We did an analysis of how our first calendar year went, and we were determined to refocus. Last week we submitted a proposal to OMB, to the White House, containing new initiatives, including trade enforcement initiatives, making these sort of cost-benefit analysis arguments that we should have made

before, and we are committed that, if we lose the fight, we at least make the best argument possible.

I concede to the committee and to the chairman that I don't believe I discharged my responsibilities in that regard as well as I could have.

Mr. SPRATT. Well, I am just trying to stiffen your resolve. I think you have got arguments to be made that are worthy arguments, they are not just paper claims. I think you can demonstrate by concentrating these resources, given the amount that you are detecting from small concentrations of intra-effort, jump teams, import specialists, given those demonstrated results, you can expect to generate additional revenues if you can simply put the people in enforcement. It is not good generally for our Government to allow our laws, our rules, our regulations to be flouted, to go unenforced. So I think there is a strong policy reason for having an intra-effort here.

I have got a number of additional questions to ask, but I have consumed a good bit of time. I want to turn to my colleagues, and I will come back to my additional questions.

Mr. Cox.

Mr. Cox. Thank you very much, Mr. Chairman.

I would like to just pursue my concerns expressed in my opening comments about the significant cut, \$57 million, in your air and marine program and your drug interdiction efforts. As you point out, Customs is getting a \$30 million budget increase, so the cut stands all the more starkly in relief.

Do we have any evidence that drugs crossing our border is no longer the problem this year that it was last year? Is it better this year than it was last year?

Mr. NOBLE. Let me start. The problem is as bad this year as it was last year. Typical measures are the purity of the product in the street and the price of the product in the street. Purity is very high, and the price is very low.

To follow up on your introductory remarks and your questions sir, the Commissioner and I went to the locations where our air and marine programs are in place and asked them how things were going. We flew on planes, had presentations to find out about the aerostats, about the missions of the C-3, the Blackhawks, etc., to find out what kinds of cases we are making through cold hit trailings of aircraft. The tunnels that are being built wouldn't be built if there weren't some kind of feeling that from a cost-benefit analysis it is not as easy to fly into the United States with drugs now as it was before. Sir, we found that there were ways we could work more efficiently and more strategically by integrating intelligence information about prospective incoming flights and deliveries, either marine or air, and also through the redeployment of our resources on a less predictable pattern. The Commissioner and I believe there is a way to make these cuts and still be strategic in our enforcement efforts.

Mr. COX. So the answer to the question is, the problem is at least as bad this year as it was last year.

Mr. NOBLE. The answer is, the problem is at least as bad this year as it was last year. The effort and resources devoted to air interdiction weren't getting the kind of return on dollar investment

for cold hit flight interceptions that made sense to devote the next dollar to cold hits as opposed to devoting additional dollars to other ways of gathering intelligence and finding out about prospective delivery of drugs.

Mr. COX. So are you taking the position then that the \$57 million was simply moved to other drug interdiction efforts?

Mr. NOBLE. No. What I am saying, sir, is that your point is well taken in terms of the cut being made in the air and marine program. The cut was not made in the air and marine program and devoted to another Treasury enforcement component.

Mr. COX. Is it simply gone from the Customs budget?

Mr. NOBLE. Yes.

Mr. COX. Customs, nonetheless, is going to spend \$30 million more than it did the year before. So we have just got different priorities than drug interdiction in Customs, right?

Mr. NOBLE. It is not that we have different priorities, sir.

Mr. COX. Certainly within Customs. I mean unless the money is being used for drug interdiction in Customs, it seems tautological that it is being used for something else.

Mr. NOBLE. Well, I would just like to answer the question in terms of the effect. If you are saying that it makes sense for the Customs Service to devote \$50 million for no marginal benefit that one can identify for the \$50 million, then I would say we can devote \$10 million and have the same impact. I am saying that there is no decrease in impact.

Yes, from a dollar perspective, if your point is that we are devoting less dollars to that particular effort, then your point is well taken, sir.

Mr. COX. So your analysis is that the drug interdiction efforts through our air and marine operations at Customs that we had undertaken last year were not effective, not sufficiently effective to justify their budgets.

Mr. NOBLE. What I meant to say, from my perspective overseeing the Customs budget, is that I want to know what are the results for each dollar invested in a particular program.

Now we are devoting these resources to air interdiction. What kind of air interdiction successes have we made through the cold hits? How many interceptions have we made? And, of the people intercepted, are we just getting loads of cocaine or are we making prosecutable cases?

I am saying if you look at the number of people who are actually prosecuted as a result of cold hits, you don't have the numbers. So you ask yourself, are we providing in large part a deterrent, and is there a way to approach deterrence in a more strategic fashion, in a more cost-effective manner without having it make a negative impact on the overall effort? We believe that the process that we have developed as a result of these cuts will make no material difference in the effectiveness of our air interdiction program.

Mr. COX. And which agencies are going to be doing these things?

Mr. NOBLE. Which things, sir?

Mr. COX. The things you described which are substituting for what Customs used to do.

Mr. NOBLE. I am saying that if Customs before would fly a plane 24 hours a day along the coast and now decides hypothetically to

fly it 18 hours a day strategically, I am saying the negative impact of that isn't noticeable in terms of the influx of air-related drug delivery. And if that is so, we would be able to respond strategically without having a negative impact on the interdiction effort.

Mr. COX. So mothballing our Blackhawks, 21 twin-engine aircraft, 4 FLIR-equipped planes, cutting and laying off pilots and radar technicians, sidelining half of the 150 seaborne pursuit and tracking vessels, taking the \$30 million per P-3 that we spent to retrofit and flying them less, all of this is going to just simply have no effect?

Mr. NOBLE. Well, there are two points I want to make. One is, the Blackhawk is a perfect example. Why do we need Blackhawk helicopters as opposed to light helicopters?

Mr. COX. You have nothing—

Mr. NOBLE. That is a question we asked.

Mr. COX [continuing]. In your budget to give you a substitute helicopter.

Mr. NOBLE. We do. We are using light helicopters in lieu of Blackhawk helicopters because Blackhawk helicopters are so expensive.

Mr. COX. But these are helicopters that you already had, yes?

Mr. NOBLE. Yes. I am just trying to respond to the question of using the Blackhawk helicopters as an example, if I may finish. The Blackhawk helicopters are very expensive, very expensive to maintain, very expensive to fly, and what is the return? Why do we have a Blackhawk helicopter as opposed to a light helicopter?

The Blackhawk helicopter, presumably, in theory, is supposed to provide us the opportunity to load them with agents, and if there is a take-down of someone, we can deploy the agents to make arrests. This rarely happens. So why have Blackhawk helicopters when we can have light helicopters? First point.

The second point: With regard to the impact, we believe we are making the determination that we can do this without it having a material negative impact on our interdiction efforts. If we are wrong, we will be able to respond quickly and efficiently, and we have a commitment from OMB to restore whatever resources we need if we are wrong.

My educated response is, I think we can do it, I believe we can do it, and I am acting in good faith. If I am wrong, I promise to tell you I am wrong and respond accordingly.

Mr. COX. I appreciate your comments, and I understand, I think, precisely what you are saying, but what I don't see in this budget is that we are taking resources that formerly were devoted, for example, to Blackhawks and putting them into something else that we think is more cost efficient in drug interdiction, we are putting it into something altogether different than drug interdiction within the Customs budget.

Mr. NOBLE. Within the Customs budget. We are a team here from a law enforcement perspective.

Mr. COX. Is drug interdiction spending going up in some other agency? That is what I want to know.

Mr. NOBLE. There are spendings that are going up in other agencies which have material impact on drug interdiction. For example, INS' budget went up by \$200 million. We know that a lot of the

people who bring drugs into the country are people who are also violating our immigration laws. We also know the Senate crime bill and the administration has committed significant resources to INS-related activities.

Efforts are also being made to increase DEA and FBI budgets as well.

Now in the area of Customs and air and marine interdiction, you are absolutely correct, we have made reductions.

Mr. COX. So essentially, DEA, Justice, and INS will be taking on the role and Customs will be shedding it, to that degree.

Mr. NOBLE. You are trying to pin me narrowly, and I have answered it narrowly that if you are talking about pure cold hit air interdiction, no. If you are talking about interdiction of drugs coming into the border, I believe, and I think the evidence supports it, that there are tremendous amounts of drugs being brought into the border by people who are in violation of our immigration laws.

So our goal is a broader goal, and that is to do whatever we can to fight the drug war, and what we are doing is using our resources more intelligently, we believe, with a fallback that if we are wrong we can respond as effectively as we need to.

Mr. COX. I would just like to ask Mr. Banks, who has been with Customs for previous years, to compare, if he can, this year with last year in terms of the worldwide situation in efforts from Peru, Bolivia, Columbia, and elsewhere to bring drugs into our country and ask you whether or not you think that, first, the situation is better now than it was last year, and, second, whether you think that our drug interdiction efforts at Customs in the past have not been worth the money we have spent on them.

Mr. BANKS. I don't think the situation has significantly improved in terms of the narcotics coming into this country. You know, there are shifts in some of the narcotics patterns. Obviously with Escobar gone and the Cali cartel taking a stronger role, we have seen shifts. We have even seen an increase in heroin coming in from South America.

You know, I don't want to paint the picture that it is any better than it has been in the past. I think it is still something of national concern.

As far as the Customs budget issues—

Mr. COX. And I want to be fair to you in your position and speak only to the previous fiscal period. Do you think the money we spent in the previous fiscal period suggests that our drug interdiction efforts at Customs weren't worth the money we were spending on them and were misspent last year?

Mr. BANKS. No, sir. I think we have done really a fairly good job—I shouldn't say that. We have done the best job that we can with the resources that we had in trying to interdict narcotics. There has been a Presidential decision made in terms of how we would change the strategy in the way that we approach some of our narcotics enforcement efforts, and that strategy is to say that we would not try to attack the problem quite as much in the transit zone. That is, you know, we want to spend a lot more time and attention in the source country, building up law enforcement infrastructure.

We still want to spend—in fact, we have received no reduction in our budget as far as us actually defending our borders. Most of the reductions that occurred were in the law enforcement effort that would happen in the transit zone. There has been a conscious decision, I think, that the emphasis wouldn't be placed there.

I think the point of Mr. Noble is absolutely correct. Actually, our air program, I think, has been one of the real success stories in the Government under tremendous criticism, but we shut down aircraft from coming into this country. You know, they used to load up aircraft all the time with dope and come into the United States, and people forget in the eighties that there used to be shootouts with automatic weapons in the streets of Miami. Well, that stopped, those planes aren't coming in any more. We have had very few intrusions of actual aircraft crossing in our borders, and instead what they have done is, they have dropped short. So our air program has been highly effective.

But I think Mr. Noble's point is, do you need to run a P-3 or other planes 24 hours a day? Can you run it 18 hours a day? As long as you keep it on a predictable schedule, are you going to be able to maintain the same level of deterrence more cost effectively? And I think that possibility is there. We have really examined this thing hard, and that is what we are trying to do, just change some of our tactics at a reduced cost.

The other point Mr. Noble made is, we have kept our infrastructure in place. The reason those planes are being mothballed instead of being sold or discarded is, if there is a problem, if all of a sudden we start seeing intrusions, it will enable us to go back and reactivate. So I think Mr. Noble's statements are correct in terms of our overall policy and the role Customs plays.

Mr. COX. I certainly recognized that last point is the theory. I am concerned that once we transfer the Blackhawks to the Department of Defense we will have a great deal of difficulty getting them back. Would you agree with that?

Mr. WEISE. Congressman, could I just—I can't help trying to get into this just a moment.

Mr. COX. I was hoping you would. I didn't address my questions to anyone in particular.

Mr. WEISE. If I could just make a couple of points, I think, one, Mr. Noble's point and Mr. Bank's point, I think, are accurate. We had a program which has been a success. For 2½ years we did not have a single incident with aircraft crossing our borders. We intercepted it, we followed it in with our Blackhawk, and we made the arrest. That was what was happening when the air program was initiated.

There were many, many occurrences where the system would pick up the track, we would follow the track, the Blackhawk would be out there with the intercept, and they would go down and follow it down. The program became so effective that for almost 2½ years we did not have a single incident.

We have very solid radar evidence of what was happening. The aircraft would be going right up to the northern border, landing in Mexico, and then they were coming across somewhere by land, and we felt we had a better chance perhaps of getting it there.

We have had, in the last 8 months I would say, seven instances where we have had crossings and we have had successful apprehensions, and in roughly half of those we used the Blackhawk helicopter.

So clearly the question is, is the deterrent enough? So far it seems like it has been very effective, and I think you are probably correct in saying, if you are going to reduce the program, perhaps the threat will increase. I think my own personal view is that the seven instances that have occurred in the last 7 or 8 months are probably an indication that the drug smugglers are testing. They are seeing a lot of the public debate, the discussion, and there was a lot of discussion before we ended up with complete elimination of these two programs. Mr. Noble fought very hard to make sure that we maintained an effective deterrent program.

We think acting responsibly, acting with reduced hours, using the light helicopters, which are one-third the cost to operate than the Blackhawk, to do a lot of the surveillance work—they can carry three people or four people instead of seven people—they can still carry out the mission at less cost.

But we are going to be studying very carefully. If the threat appears to go up—and that is one of the things that is built into this program, as both have indicated—we can within a 4- to 6-week period come back to full operation of where we are today. It seems to me it is in the interests of the American taxpayer, if the fundamental purpose of the program is deterrence, if we can do the deterrence by working perhaps more smartly by, instead of having 24-hour surveillance, doing it 18 but not letting the smugglers know which 18 it is so they still know, "I had better not test it," and, if they do test it, having us catch them. Then maybe we save the taxpayers some money and we haven't seen a significant reduction in the effectiveness of the program.

But perhaps we are going to find that the threat is going to go up so much that we are not going to be able to keep up with it with these resources. Director Brown and others in the administration have given us the commitment they will try to find the resources to have us put those assets back in operation if it is demonstrated that has occurred.

So the worst case scenario is, it may take us a few weeks to gear back up. The best case is, we may be able to do, perhaps not as effective but almost as effective, a job for significantly less dollars. What the administration is attempting to do in their fundamental narcotics program is spend a little bit more money that they have taken away from interdiction on the other side of trying to reduce the demand and trying to have a comprehensive program where you are tackling entry as well as demand.

In a time of tight budgets, there is a finite number of dollars available, and there have got to be trade-offs. It seems to me it is a responsible approach, and it is one which we know is a test, and we are going to monitor very closely to see if it is an effective way to operate.

Mr. Cox. Well, you certainly put your finger on it in your final comment that I do detect a shift in the overall Clinton budget, with which I work in the Budget Committee, away from interdiction and toward treatment. I am concerned because we have tripled our

treatment moneys during the Bush years, and we found we have had the same 1.5 million people volunteering for treatment every year despite the fact that we have more counselors and more offices and so on.

This problem of drugs coming into the country is huge, it is absolutely enormous. It hasn't, by all the testimony we have heard this morning, abated. We are having difficulty getting our arms around it. We know that when we go deep into the source country, if we want to put our efforts in the jungle in Peru 100 miles in, that we are going to risk lives and spend more money and be less effective than we will if we are, as you say, operating a zone near our borders. I cannot dispute at all your conclusion that you don't want to use a Blackhawk helicopter, you want to use a light helicopter. I would be delighted to see us try and keep one step ahead of the people that we are trying to beat by constantly shifting and changing our strategy.

But what concerns me is that I see resources being moved out of one thing and not into some other form of more effective drug interdiction but rather into something else altogether different at Customs so that we get a \$30 million budget increase but \$57 million less for drug interdiction.

Substituting one form of interdiction for another would be fine, and that is part of the argument we have heard today. We can do that effectively, but just cutting it and not substituting something else does give me great concern because I know how vast the problem is. I know that even if we doubled our budget, frankly, we wouldn't be getting all that we would want to.

So moving in this direction seems to me a signal of retreat at just the wrong time when 1993 was the year in which, after a full decade, for the first time we saw drug use among American students go up. I don't want to signal that sign of retreat. So I am very, very concerned, and I will certainly be supportive of you on the Budget Committee and here and elsewhere if you decide that you want to reverse that course.

Mr. NOBLE. Thank you, sir.

Mr. COX. I thank you.

Mr. SPRATT. Mr. Green.

Mr. GREEN. Thank you, Mr. Chairman. I have a statement I would just like to have entered into the record.

Mr. SPRATT. Without objection, it will be made part of the record.

[The prepared statement of Mr. Green follows:]

**Statement of Representative Gene Green
Government Operations Subcommittee on
Commerce, Consumer, and Monetary Affairs**

FY1995 Customs Budget

Thank you, Mr. Chairman. After all the trade agreements are negotiated and laws passed to halt drug trafficking, the U.S. Customs Service is responsible for enforcing them. As such, they have an unglamorous but very important task.

With the passage of NAFTA, the pending passage of the Uruguay Round, and the ever-increasing volume of immigrants and tourists passing over our borders, we must give the Customs sufficient resources to do their job properly. Our laws won't enforce themselves.

By the same token, the Customs service must have their house in order by consistently improving their data-gathering and data-managing techniques. A lack of cooperation with the INS on issues of common interest also has been noted in the past by the GAO. I believe the panelists know the importance of solving these problems already and I look forward to hearing their reports on the progress they have made.

Mr. GREEN. And I would like to follow up on the questions. Because I am from Houston and I am concerned about the textiles, I must also admit that with my local Customs people interdiction is a concern. Particularly on my other Committee on Merchant Marine and Fisheries, we are seeing a cut in the interdiction efforts by the Coast Guard.

When I see that happen in Customs, it bothers me that the shift is being made. We are not only doing it in Customs but I see the cuts proposed in Coast Guard too, and we in the committee are expressing our opposition to that.

Particularly this last year in Houston—and I am a new Member of Congress—we actually received more seizure money for the city of Houston through Customs than ever before. Of course, thank goodness it is not on budget, you can never predict it, but it is really good.

But when I saw \$10 million last year seized through Customs, working cooperatively with the city of Houston and city police, that is overwhelming compared to the past. The system is working, at least the seizure part is. But to see the lessening of it—and I was interested in Mr. Banks' comment about that we are not talking about the actual borders or the port of entry like the city of Houston or the borders with Mexico. We are talking about that transit zone between South America and the borders and if that is true, I share that, but I hope we are not losing some of the information that we receive in that transit zone to stop them at the borders, and I hope that is being beefed up.

In the other response that you made concerning cooperation with INS, I know that in having talked for a number of years with Federal officers in both Customs and INS as a State legislator, oftentimes there is not that cooperation. If you can assure me or at least the committee that we are going to see that cooperation between Customs and INS, I would be pleased. Because I don't care who stops them, whether they are Customs or INS, just so somebody does. If we can have that cooperation in our ports of entry along the Rio Grande in Texas or in Houston, then I think we can allocate our resources more effectively. But up until now I haven't seen some of that—in fact, some competition between the two, and some competition is healthy, but when it loses the effectiveness, then I am concerned.

I appreciate the no material difference in air interdiction, and I hope that is true. I am glad OMB is giving you that commitment because when I see, like I said, what is happening in other agencies in the cutting of the interdiction just when we see some success, that we are cutting it, I am concerned about it.

But let me get away from that. I would like to ask a question concerning Customs and the transit. One of the concerns because of NAFTA, and even before NAFTA, is the provision now under NAFTA for certification for both Canadian and Republic of Mexico truck drivers coming in.

I would be interested in any statistics you have on prior to NAFTA and after the North America Free Trade Agreement, on the safety factor of the vehicles coming in not only from Mexico but also from Canada; and the certification of the insurance requirements, because that is a fear in my district in Houston that we

have that we will have trucks that don't meet the State requirements for insurance or the State safety requirements or even the Department of Transportation.

Mr. WEISE. Congressman, we are going to be monitoring this very closely. It is obviously very early in the process. We don't have a lot of data to go on, but there are a number of issues that we are going to be monitoring closely. That one is obviously of interest, and of several other agencies as well as the Customs Service, in terms of highway traffic safety. But we will be trying very hard to monitor closely the impact of the agreement in all areas.

Mr. GREEN. And in closing, like I said, I have met with the Customs people in Houston, and I appreciate their cooperation and the information they have provided because I also represent the port of Houston and the airports, ports of entry, and the interest that I have in the commerce to make sure it still flows. But there is some free trade we really don't want, particularly with drugs.

Thank you, Mr. Chairman.

Mr. SPRATT. Thank you, Mr. Green.

Mr. Horn.

Mr. HORN. Thank you very much, Mr. Chairman.

I am impressed with your credentials Mr. Secretary. We share Judge Higginbotham in a way. He swore me in as Vice Chairman of the U.S. Commission on Civil Rights, and we share that western branch of Harvard also. I am particularly impressed with the fact that you have successfully prosecuted a cocaine conspiracy of 80 people who sold \$50 million worth of cocaine. So I know you are no newcomer to this problem, and I think you have found, regardless of party, that we pretty much agree on what needs to be done.

I am going to approach it in a little different way. Once material lands in the United States—and now I am talking what is supposed to be legitimate commerce—through the port of Los Angeles and the port of Long Beach, and I represent both ports in Congress—I am curious on the data you have as to how many containers come into those two ports. How many do your people actually have a chance to investigate, and how many have you inspected? Do we have that data handy?

Mr. NOBLE. We will have to supply that for the record.

[The information follows:]

Containers and Inspections - Los Angeles and Long Beach

The Ports of Los Angeles and Long Beach are administered by Customs as one port. The following statistics covering arriving containers and inspections for narcotics at the Ports of Los Angeles/Long Beach are for calendar year 1993:

Loaded container arrivals = 1,380,182

Empty container arrivals = 22,299

Loaded containers inspected = 4,139

Empty containers inspected = 3,576

The above figures are for cargo from all over the world. The following figures are for cargo arriving from cocaine source and transit countries:

Loaded container arrivals = 21,538

Empty container arrivals = 5,702

Loaded containers inspected = 1,887

Empty containers inspected = 3,349

Mr. HORN. Would you give me a percentage approximation of whether you think it is 1 percent of the containers or 10 percent of the containers.

Mr. NOBLE. About 7 percent.

Mr. HORN. Seven percent. And I agree with the strategy approach you are talking about here of how do you get the greatest bang for the dollar.

What have you done to analyze the fact that we are only doing 7 percent. They have got a chance to get stuff through with the 93 percent. How are we going about addressing that in terms of statistical inference and all the rest to see if something gains? For example, I would like to know what have you found in both commercial violations with the 7 percent, in drug violations with the 7 percent, and have you ever had a sweep where you have done every container in any port in the country for one solid week to see what would happen? And if so, what happened?

Mr. NOBLE. Mr. Congressman, I am going to ask the Commissioner to respond, but could we speak a little more abstractly in terms of the kind of approaches we are using, because I mean the drug traffickers are so intelligent and so tenacious—

Mr. HORN. They are probably sitting in the hearing room. I don't doubt that.

Mr. NOBLE. If we could just talk abstractly—Commissioner.

Mr. WEISE. Yes. You raise a very valid point, Congressman. One of the things that we have been attempting to do is, in the past we basically were doing a lot of random examinations, and we were highly criticized by GAO that our random examinations were not getting a lot of tangible results. They made recommendations, and we endorsed those recommendations that we need to find a way to get a better grasp on what our compliance rates are in various product areas, and we have. I am surprised you haven't heard about it, because Los Angeles was one of the areas where we were doing a snapshot, as we call it.

We went in for several weeks in various product areas and did 100-percent examination. We are doing that for five different product groups as a start and coming up with an overall compliance rate on various commodities. Ultimately over the next several years, we are going to try to do that in every port for every commodity so that we will know in advance and to allow us to more appropriately selectively target the kinds of containers based on the products that are coming in and the threat factor based on this analysis on where we should be devoting our resources. I think it is one of the most important initiatives that Customs is currently undertaking.

We have been working very closely with GAO, have been getting very solid, positive feedback on the approach that we are taking and that we are using appropriate scientific and statistical methodology to do this. It is something we are very excited about in Customs.

Mr. HORN. Good. Well, on the basic question, just systematically working down, perhaps you would want to brief the committee in executive session.

Mr. NOBLE. We would be happy to do that.

Mr. HORN. As a group or whatever.

I just want to know what progress we are making, and I am excited by what you are saying you are trying to do here, and we want to be supportive.

Now, what I am curious though, just to pin it down, in terms of the enforcement shift here of resources, and I have no problem with them going to INS if we are in a world of limited resources, because here two of us from California feel the brunt of not having sufficient resources for INS every day of our lives in terms of State resources.

But just to get it on the record, I would like to have you file, what did the Commissioner of Customs ask for in enforcement, what did the Secretary of the Treasury ask for, and what were you finally given by OMB, and was there an appeal to the President if you weren't happy with the decision of OMB, and what did the President finally recommend?

I would just like that laid out for the record on the enforcement categories and also formally, although I think we have got some of it in the record, where the shift went within Treasury, because we also need to ask ourselves are the Treasury-Justice enforcement agencies getting sufficient resources, and maybe we ought to hit the rest of the Federal Government and move money into Justice, move money into Treasury, because you are right there on the frontier of some of the real hot spots that are affecting this society.

So if you could file that for the record unless you want to make a general statement now and then follow it up with the data, but I want the hard data of who did what to whom.

Mr. NOBLE. I would prefer, with the Congressman's permission, to submit a comprehensive answer in writing.

Mr. HORN. OK.

[The information follows:]

INFORMATION FOR THE RECORD:

FY 1995 RESOURCES FOR CUSTOMS ENFORCEMENT ACTIVITIES

Enforcement activities of the United States Customs Service are funded with appropriations to two accounts, the Salaries and Expenses account and the Operations and Maintenance, Air & Marine Program account. Customs enforcement activities are supported by the work funded in the Tariff and Trade budget activity, as well as that of the Inspection and Control activity.

In its FY 1995 budget request to the Department of the Treasury, Customs requested a total appropriation of \$1,473.7 million. Of this amount, \$466.2 million was allocated to enforcement requirements in the Salaries and Expenses account, to be supplemented by \$140.9 million in Operations and Maintenance funding.

Changes in the executive branch budget process resulted in the submission of an aggregate Treasury budget request to the Office of Management and Budget for FY 1995 funding. This request did not contain specifics on funding levels for any budget activities.

The President's FY 1995 Budget included a total funding request for Customs of \$1,482.8 million. Enforcement activities were funded at a level of \$460.4 million in the Salaries and Expenses account, with an additional \$83.1 million provided in the Operations and Maintenance Account. These reductions were taken to reflect a change in the President's drug control policy from targeting those involved in supplying drugs to reducing the demand for narcotics.

Mr. WEISE. If I could just make one editorial comment though, it isn't clean when you look at our budgets of how much is enforcement and how much is nonenforcement because there is an awful lot of overlap. We will do the best we can to give you as comprehensive a complete answer as possible, but our agents, for example, many times part of their day is dealing with commercial textile transshipment fraud, another part of their day may be working on a narcotics case, an anti-smuggling case. So it isn't as clean a break as perhaps you would like to see, but we will give you the best we can.

Mr. HORN. I take it those agents on the firing line in the ports are trained in both types of endeavor.

Mr. WEISE. Correct.

Mr. HORN. Do you keep any statistics as to the proportion of time they spend on either—

Mr. WEISE. Yes, we do.

Mr. HORN. You do a random sample or a total payroll?

Mr. WEISE. We actually have something that we are again quite proud of. We have, I think, one of the best measurement tools in law enforcement where we keep records on the number of cases that are made, the number of arrests and a very comprehensive measuring tool. But in terms of how many hours per investigation, we will have to check into that.

Mr. HORN. Could we file for the record, either on or off the record, up to the subcommittee.

Mr. SPRATT. And the ranking member, as to the proportions spent in our various ports on both commercial and drug enforcement: What are we finding here? Is there a major shift? I think the committee ought to take a look at that.

[The information follows:]

COMMERCIAL FRAUD INVESTIGATIONS

All Office of Enforcement personnel are required to account for all of their work hours, including holidays and overtime, by case number. Time spent on fraud investigations and/or trade enforcement initiatives is reported in the Treasury Enforcement Communication System (TECS II) Case Management System database by the monthly posting of manhours to specific and general Category 08 Fraud cases. The total Category 08 Fraud manhours are reported as follows:

FY 93 (Oct. 1, 1992 through Sept. 30, 1993) = 570,572

FY 94 to date (Oct. 1, 1993 through June 6, 1994) = 410,295

Also, please note that when comparing the amount of time spent on drug enforcement, it is not accurate to compare Category 08 Fraud case hours with exclusively Category 13 Drug Smuggling case hours. Narcotics-related enforcement time may also be reported under other case categories, such as Category 02 Currency and Category 47 Air Interdiction.

Mr. HORN. You mentioned the word "prosecution," and that concerns me. What have you found in terms of relations with the various U.S. attorneys in the cases you have brought to them? Have you kept the data on how many are not followed up by the U.S. attorney? And, if so, is this a dollar amount figure? Is it simply they lack the evidence from either Customs or the other enforcement agencies to carry the case through?

For example, to move away from the Customs a minute, simply to harbor security, I am told by people in the two ports I represent that the U.S. attorney doesn't even want to look at the case where you are talking about a stolen container that might have \$10,000 or less value to it. They feel it is a waste of their time. That concerns me.

The question is, for example, should we pursue the criminal aspect of the law, or should we be thinking about civil penalties that could be invoked to maybe have the same effect on deterrence? Now I am talking really common crime. I can't say it is part of a great international conspiracy or anything, but we have some real problems in that area, and whether that comes within any of the warehouses that are under Customs jurisdiction I don't know, but that is something we will be looking into, and I would like to have your assessment, but right now I would like to have your generalization as to U.S. attorney support for what you are doing.

Mr. NOBLE. Drawing on my experience as an assistant U.S. attorney [AUSA] in Philadelphia and as a deputy assistant attorney general in the Criminal Division at main Justice, the relations between the U.S. attorneys' offices and the Criminal Division lawyers and the Treasury components are quite good.

Getting to the specific areas that you have highlighted, sir, starting with whether there are records kept of the number of cases that are declined and if those records are kept, whether one could deduce something meaningful, and I would say it is not a clean process. It probably is a flawed process.

If a referral is made to an agent or if an agent uncovers something herself, she might begin the investigation and subsequently decide to discontinue the investigation. She even may go to an AUSA and say, "Why don't you glance at this. I think it is a declination; what do you think?" And, the AUSA may agree. That is a process which frequently occurs.

With regard to small cases that an investigator perceives is a small case, like a theft of a container, it is fair to say that the U.S. attorneys have to accept such cases periodically so that people know we are enforcing the law. Container thefts are very important because if they are not enforced, we know that the increase in thefts would have a tremendous impact on businesses.

I can tell you that Attorney General Reno and the Secretary have a very good relationship. We have been invited to U.S. attorneys' conferences, we have been able to make presentations as bureau heads and as assistant secretaries, and we have been given the commitment by the Attorney General that if we have problems, we can bring them to the Attorney General's advisory committee if there is a policy problem.

Although relations are good, the realities are that there are a number of cases which the individual victim believes, and I believe

rightfully so, ought to be prosecuted that at times aren't prosecuted. As I recall, when I was at San Ysidro at the port of entry, there is some declination level, perhaps a threshold of 30 pounds of marijuana, the U.S. attorney's office usually doesn't prosecute. People frequently smuggle marijuana in small levels—27 pounds, 28 pounds—as though they know it. So, periodically we have to accept these cases as a deterrent.

Mr. SPRATT. If the gentleman would allow me just to interrupt 1 minute. I recall from talking to our enforcement folks up in Newark and New York that they felt that the Southern District Court of New York always felt that it had much more important cases to prosecute than these textile infringement cases. So consequently they thought that they were always continually on the back burner, that they were sending stuff to the Southern District Court, and they had to clamor for attention and for action upon the cases. While it has increased, and I would guess the level of attention has probably only increased marginally.

Mr. NOBLE. I think it is fair to say that it is marginally. But one of the points that I tell my special agents-in-charge to make is to remind people, "It is the economy, stupid," and that is, there is a tremendous impact on our businesses in the United States that can only be addressed through both criminal and civil enforcement of these violations.

Even though they are not the kind of cases that generate press headlines, from an economic viewpoint it makes a big difference in our country. We have gotten commitments from U.S. attorneys' offices to do these sorts of cases. They also are great training cases because the sorts of evidentiary skills that one develops prosecuting trade cases are the kinds that transfer to all drug cases.

Mr. HORN. I wonder, Mr. Chairman, if we could work out with your staff, the minority staff, the GAO, and Customs, some sort of study where we could get at this and look at the data? In another subcommittee of this full committee on which I serve, chaired by Gary Condit, we are looking at the allocation of U.S. attorney resources, which is a rather interesting historic factor depending on who sat on what Senate Judiciary Committee or "the other body," as we call it.

But I think it might be useful to look at some of this allocation, because the allocation of U.S. attorney resources, as you have suggested, is directly affecting your ability to deter by having some prosecutions on at least a regular basis, and that would include the \$10,000 items, because, as you suggest, if you let that go unprosecuted, you are going to have thievery with your work force throughout the port area, and we need to do something to stop it.

Mr. NOBLE. May the Commissioner follow up on that?

Mr. WEISE. I would just like to make one comment, particularly with regard to the point that you raised, Mr. Chairman.

There has been some frustration in the past with regard to not only textile cases but commercial cases being accepted by the U.S. attorneys because they are overwhelmed with an awful lot of work. Sometimes they look at a commercial fraud case as being not as important in the overall scheme of things as some narcotics cases that are major cases, for example.

But part of the problem, I think in the past, these have been very difficult cases to make, and there is an awful lot of work involved in them and perhaps not as good an understanding in some of the U.S. attorneys' offices of the nuances of the law.

We have embarked on a program in conjunction with the Justice Department beginning to have training classes for assistant U.S. attorneys. We had a very successful one several months ago down in Florida. We had 42 assistant U.S. attorneys, and we have scheduled a number of other training sessions. We are getting very positive feedback and response from this, and we are very hopeful this is going to result in more prosecutions of commercial-type cases.

I would also reiterate Assistant Secretary Noble's point that there is a lot of frustration among agents on the narcotics end when there are these thresholds. Because of the overwhelming volume of cases, they make an excellent case, but it is just beneath the threshold, and what we have tried to do is go to the States' attorneys and see if the local prosecutors would be willing to take them. In many cases, they are. But it is a problem in that the system is very overworked, and there has to be prioritization, but we are working on both fronts.

Mr. HORN. I would like to submit for the record at this point the chart that the staff has here of the U.S. Customs Service commercial enforcement costs that goes from fiscal year 1988 through fiscal year 1995.

Generally in recent years, we are talking about almost a 2-to-1 commercial FTE compared to drugs, 10,695 in fiscal year 1995 versus 5,090 on drugs—first commercial then drugs—17,040 on other.

So if we just have the data laid out, there seems to have been an increase certainly from 1988 of about 500 full-time equivalents on drugs and it looks like 1,000 full-time equivalents on the commercial side.

Mr. SPRATT. Without objection, if you will hand it up, we will make it part of the record.

[The information follows:]

	1988		1989		1990		1991	
	<u>FTE</u>	<u>\$000</u>	<u>FTE</u>	<u>\$000</u>	<u>FTE</u>	<u>\$000</u>	<u>FTE</u>	<u>\$000</u>
Salaries & Expenses								
Commercial	9,527	565,333	10,416	585,624	10,076	618,246	10,069	668,110
Drugs	4,581	266,662	4,852	318,324	5,077	310,712	4,771	381,536
Other	1,188	134,005	1,438	126,199	1,353	125,921	1,208	105,328
Total	15,294	966,000	16,706	1,030,147	16,506	1,054,879	16,046	1,154,974

U.S. CUSTOMS SERVICE
COMMERCIAL/ENFORCEMENT COSTS

	1993		1994		1995	
	<u>FTE</u>	<u>\$000</u>	<u>FTE</u>	<u>\$000</u>	<u>FTE</u>	<u>\$000</u>
Salaries & Expenses						
Commercial	10,130	733,428	10,470	793,842	10,695	853,849
Drugs	5,208	435,439	5,357	438,972	5,090	426,523
Other	1,869	156,177	1,826	117,855	1,740	117,911
Total	17,207	1,325,044	17,653	1,350,669	17,525	1,398,283

Mr. HORN. That is it. I yield back the time.

Mr. SPRATT. Thank you, Mr. Horn.

I think Mr. Cox has some additional questions.

Mr. COX. I do. We have got a vote.

Mr. SPRATT. I know.

We don't want to overtax your time. If you could wait a few minutes, we will be back as quickly as possible; and we will try to wrap it up within 30 or 40 minutes, if that is OK.

Thank you very much.

Mr. NOBLE. Thank you.

[Recess taken.]

Mr. SPRATT. I was waiting on Mr. Cox to return. I think he will be back momentarily. He was on the floor when I left, but I am going to go ahead with questions and answers.

We referred to the letter that the President sent to me and other Members of Congress shortly before the NAFTA vote. That letter contained a commitment for the additional Customs personnel we have discussed. It also contained a commitment to make some regulatory changes which would be promulgated, the drafts of which would be issued by April 1, 1994, a few weeks away, one to extend the redelivery period.

That was an idea, frankly, that we picked up from Customs. You had discussed with us the problems that you are confronted with in trying to make a quick redelivery within a 30-day period of time. You felt that if you had an extended redelivery period this would facilitate your enforcement.

Another was to beef up the certificates of origin that accompanied the shipment of textile goods so as to implicate all the parties who were responsible for bringing those goods into the country, to impose on the importers as well as the exporter a duty of due diligence to see where the goods were made and to see that the documents were genuine, and then there were suggestions of proposed changes in the mitigation guidelines. Where do we stand with respect to getting that work done and meeting the April 1 deadline?

Mr. WEISE. Mr. Chairman, in all three instances they are well along in the process within Customs. We are hoping within just the next several days we will be getting them over to the Department for appropriate departmental approvals, and we are still very confident that we are going to make the April 1 deadline.

Mr. SPRATT. On all three areas?

Mr. WEISE. Yes.

Mr. SPRATT. OK.

Going back to the 100 additional personnel, one of the problems we have had, first of all, is establishing a baseline, identifying Customs agents, import specialists, enforcement agents, investigative types, dockside inspectors, the whole spectrum of Customs personnel, who are really earmarked and dedicated to textiles. I understand that a lot of these people don't do anything exclusively, they do a number of different things.

Can you give us a baseline of how many people a day are working, FTE's if possible, in the area of textile and apparel enforcement so that we can measure against this baseline the actual addition of the 100 personnel, 50 for non-NAFTA, 50 for NAFTA?

Mr. NOBLE. Could we have Deputy Assistant Secretary Simpson answer.

Mr. SIMPSON. Mr. Spratt, this information is informal, but the last time I talked to the Customs people about this, which was within the last month, they estimated it was around 400 staff years of effort right now.

Mr. SPRATT. 400 staff years?

Mr. SIMPSON. 400. So that is the equivalent of 400 full-time employees working on textiles. There are more than 400 people who work on textiles, but if you boil their time down to the full-time equivalent, I am told there would be 400 or in excess of 400.

Mr. WEISE. 420.

Mr. SIMPSON. 420.

Mr. SPRATT. And that is import specialists.

Inspectors, investigative types, or just import specialists?

Mr. WEISE. I am told that is just the import specialists and import generalists. I am not sure what an import generalist is. I will have to learn that. That is a new one on me.

Mr. NOBLE. It is an educational hearing for all of us.

Mr. WEISE. Right. We have some detailed analysis that we will provide, Mr. Chairman, for the record, so you will have all of this.

Mr. SPRATT. We had a number of 235 full-time, 185 part-time, supplied to us on February 15. I didn't realize we had that submission for the record.

Mr. WEISE. Yes, that is correct, sir.

Mr. SPRATT. So that is 420 altogether.

Mr. WEISE. That is right.

Mr. SPRATT. And you can give us a breakout of what specialties these 420 represent.

Mr. WEISE. That is correct.

And then, in terms of regulatory auditors, we have 50 laboratory personnel, 41, and INC personnel is 148. But we will have this document for the record so you have this.

Mr. SPRATT. OK.

I beg your pardon. Apparently we do have it. We got it in a recent submission for the record to an earlier question.

As I understand your budget, there is an increase, but it is less than the rate of inflation for the coming year, \$30 million—\$28 million, less than the anticipated rate of inflation, and you are actually cutting staff in the aggregate, 129 FTE overall. Where do those 129 cuts come from?

[The information follows:]

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ONE HUNDRED THIRD CONGRESS

Congress of the United States
House of Representatives

COMMITTEE ON GOVERNMENT OPERATIONS

2157 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-8143

Subcommittee on Commerce, Consumer, and Monetary Affairs

B-377 Rayburn House Office Building, Washington DC 20515-6144

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January 7, 1994

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INDEPENDENTMAJORITY—(202) 225-4081
MINORITY—(202) 225-6074Mr. Samuel Banks
Deputy Commissioner
U.S. Customs Service
1301 Constitution Avenue, NW
Washington, D.C. 20229

Dear Mr. Banks:

As a follow-up to our subcommittee hearing on transshipments, I would be grateful for more information on Customs personnel levels over the past two decades. A long-standing concern of my subcommittee has been that the federal government provides the Customs Service with inadequate resources to accomplish its enormous responsibilities. For example, even though the volume of U.S. exports and imports has expanded exponentially over the past two decades, Customs personnel and resources have not kept pace. In that context, I would like tables showing Customs' work force levels for the following years: 1973; 1977; 1982; 1987; 1993 and projected figures for 1994. It would be most useful if these figures were broken down into job functions. Should that be too burdensome, I am most interested in the number of individuals working as inspectors, import specialists and agents. In addition, it would be helpful to learn how many of these employees worked full-time and how many part-time on textile enforcement issues. Please also provide information on the number of Customs personnel working on Operation Q-Tip and the number who will be working on Q-Tip after the resources pledged by President Clinton are provided. Please indicate where you believe additional resources or manpower would be helpful. I would like for the same years, 1973, 1977, 1987 and 1993, the total value of imports entering the country. Those figures will help us compare the increase in volume of cargo you must inspect with personnel figures at very times.

You know, of course, about the pledges made by President Clinton in his November 16, 1993 letter to me and nine other Representatives for additional Customs personnel and resources. My colleagues and I take those pledges very seriously and I would like to know: 1) the date when the additional 136 employees will be hired; 2) what their job responsibilities will be; 3) how the additional \$15 million will be spent; 4) the date when

- 2 -


this money will be available; Since the NAFTA went into effect on January 1, 1994, Mexican textile manufacturers are already taking advantage of the new import rules and the need for the additional resources is immediate.

Finally, President Clinton pledged in his letter to issue by April 1, 1994 proposed regulations for extension of the redelivery period, changes to the mitigation guidelines and issuance of certificates of origin/textile declarations on non-NAFTA qualifying shipments. Please provide our subcommittee with a copy of these draft regulations and let us know what stage in the drafting process are these proposed regulations.

Since the answers to the questions I raise are important for upcoming hearings we are considering, I would be grateful if you could provide this information no later than February 4, 1994.

Thank you for your cooperation. Please feel free to call me or Tom Kahn should you or your staff have any questions.

Sincerely yours,


John M. Spratt, Jr.
Chairman

DEPARTMENT OF THE TREASURY

U.S. CUSTOMS SERVICE

WASHINGTON, D.C.

February 15, 1994

BUD-1-OM:C:B:F CJ



The Honorable John M. Spratt, Jr.
Chairman
Subcommittee on Commerce, Consumer,
and Monetary Affairs
Committee on Government Operations
United States House of Representatives
Washington, D.C. 20515

FEB 16 1994

COMMERCE, CONSUMER,
AND MONETARY AFFAIRS SUBCOMMITTEE

Dear Mr. Chairman:

I am writing in response to your letter of January 7, 1994. In that correspondence, you requested information on past Customs personnel levels and the status of President Clinton's pledge to add Customs personnel and resources for textile and apparel enforcement activities. In addition, you requested information on the status of proposed regulations regarding redelivery periods, mitigation guidelines and certificates of origin/textile declarations.

Enclosed is information on the following issues:

- (1) Summary of Customs work force levels for inspectors, import specialists, agents, and auditors for 1973, 1977, 1982, 1987, 1993, and projected estimates for 1994;
- (2) Data on personnel working on textile enforcement issues;
- (3) Issue papers on resources or manpower for textile enforcement activities; and
- (4) Data on the total value of imports entering the U.S. for 1973, 1977, 1982, 1987, and 1991.

The additional resources pledged by President Clinton are included in Customs Service Fiscal Year (FY) 1995 Budget request. However, I am happy to inform you that Customs is making every effort to provide funding for these resources in FY 1994 to accomplish the goals of the textile enforcement program. As you are aware from earlier hearings, identifying textile and other NAFTA violations is a complex undertaking, requiring experienced and knowledgeable staff for effective enforcement. Therefore, we are planning to shift on-board experienced import specialists, agents,

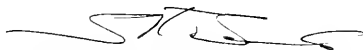
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inspectors and auditors to those areas experiencing high volume textile imports and to ports where transshipment violations are occurring. Geographically, primary locations will be along the Southwest Border, major airports and seaports, and to ports deemed vulnerable to violators involving other products, such as beef, peanuts, etc. In anticipation of Congressional approval of the \$18 million initiative in our FY 1995 request, Customs will begin recruitment for these new positions in FY 1994. This preparation will enable Customs to fill the new additional positions by October 1, 1994, and to be fully operational at the start of FY 1995.

Finally, I am pleased to inform you that Customs is in the process of drafting the regulatory proposals highlighted in your letter and that the project is on schedule. The proposals must be approved by the Department of Treasury for publication in the Federal Register. At that time, we can provide the Subcommittee with approved copies of the proposals.

I very much appreciate your interest in the Customs Service. If you have any questions regarding this information, please contact me at your earliest convenience.

Sincerely,



Samuel H. Banks
Acting Deputy Commissioner

**SUMMARY OF EMPLOYMENT
DIRECT FULL TIME EQUIVALENT POSITIONS \1**

	FY 1973	FY 1977	FY 1982	FY 1987	FY 1993	FY 1994 est.
INSPECTORS	3,472	3,943	3,987	4,386	5,983	6,230
AGENTS and PATROL OFFICERS	1,692	1,968	1,693	2,089	2,342	2,387
IMPORT SPECIALISTS	1,304	1,204	1,081	966	1,140	1,169
AUDITORS	--	--	137	204	360	360
ALL OTHER	<u>4,931</u>	<u>5,738</u>	<u>5,646</u>	<u>5,607</u>	<u>6,832</u>	<u>6,958</u>
TOTAL FULL TIME	11,399	12,853	12,544	13,252	16,657	17,104
PART TIME and TEMP	<u>373</u>	<u>375</u>	<u>380</u>	<u>719</u>	<u>550</u>	<u>550</u>
AGENCY TOTAL	11,772	13,228	12,924	13,971	17,207	17,654

1\ Does not include any user fee reimbursable programs such as COBRA, OCDETF, Puerto Rico, Small Airports, Carrier Hubs, etc...)

WORKING ON TEXTILE IMPORTS

Based on a recent survey of Customs Import Specialist Teams throughout the country:

Number of Import Specialists

Full-Time	235
Part-Time	<u>185</u>
Total	420

ENFORCEMENT RESOURCES DEVOTED TO OPERATION Q-TIP

	<u>Work Hours</u>	<u>FTE</u>
FY 1991	19,154	9
FY 1992	100,558	48
FY 1993	56,306	27

The data for resources in FY 1994 are unavailable because the amounts of additional resources to be used in textile enforcement are not yet finalized. When they are made available, they will be disbursed to major port areas that have high incidences of textile fraud. The resources will not be devoted specifically to Operation Q-Tip. Agents are not entirely dedicated to work on textiles.

ADDITIONAL RESOURCES OR MANPOWER

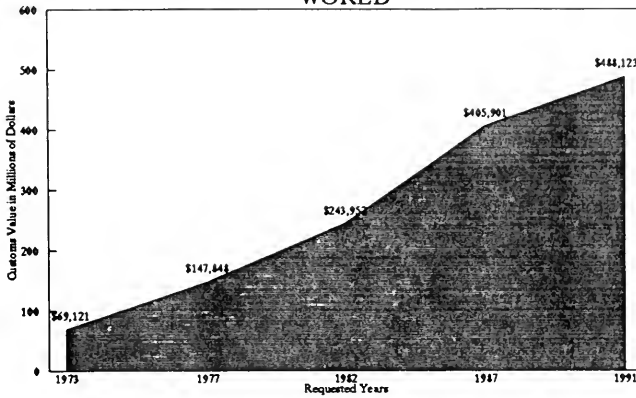
The Customs Service is currently undertaking a three part program to ensure effective enforcement of all textile imports, as well as, implementation of the new NAFTA regulations.

The first step has been to implement a comprehensive program for training of Customs staff nationwide. Second, Customs is in the process of enhancing its automated systems to improve targeting of potential violations, as well as preparing detailed information on textile import trends and countries. Finally, Customs will be recruiting and allocating the additional staffing resources directed to administering textile and NAFTA related imports. We anticipate that the current Customs resources devoted to textile enforcement activities, coupled with the requested enhancements in the FY 1995 budget, will be adequate for effectively targeting violators. Once the full trade enforcement system has been implemented, we will evaluate the results achieved.

**U.S. IMPORTS from...
WORLD**
(Customs Value in millions of dollars)

	<u>1973</u>	<u>1977</u>	<u>1982</u>	<u>1987</u>	<u>1991</u>	<u>1993</u> ^a
TOTAL	\$69,121	\$147,848	\$243,952	\$405,901	\$488,123	Not Available

**U.S. IMPORTS FROM...
WORLD**



a) Customs is currently in contact with U.S. Census to obtain FY 1993 data.

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ONE HUNDRED THIRD CONGRESS

Congress of the United States House of Representatives

COMMITTEE ON GOVERNMENT OPERATIONS

2157 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-8143

Subcommittee on Commerce, Consumer, and Monetary Affairs

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March 1, 1994

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Mr. Samuel Banks
Acting Deputy Commissioner
1301 Pennsylvania Avenue, NW
Washington, D.C. 20229

Dear Mr. Banks:

Thank you for providing our subcommittee with additional information on the operations of the Customs Service after our hearing on October 5, 1993. The information provided to date has been most helpful but is not quite complete. In our letter of January 7, 1994, we requested the breakdown of the full and part-time employees working on textile enforcement issues for years 1973, 1977, 1982, 1987, 1993 and the projected figures for 1994. The information provided on this topic was limited to a recent survey of import specialists for what appears to be a single year which is not specified. Annual numbers are necessary for all types of employees involved in textile enforcement. In addition to a breakdown of full and part-time employees, it would be helpful to have figures on staff years for each. The data should include employees working as inspectors, agents, auditors and any other relevant job classifications that are appropriate. Please provide an explanation of the job responsibilities of these employees, as well.

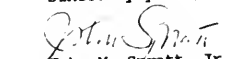
The information provided on employees working in Operation Q-Tip was provided without designating the job classifications of the employees. Please provide a description of the various job classifications and their corresponding numbers. Your letter explained that data on the number of employees working in Operation Q-Tip in FY 1994 and later years was not available. To the extent possible, I would appreciate estimates of the number of employees that will be working in Operation Q-Tip in FY 1994 and their corresponding job classifications.

Since this information is important to help us prepare for our March 10 hearing, I would appreciate your response by March 7 at the latest. I hope this request does not put an excessive burden on you or your staff and I am grateful for your aid.

- 2

Thank you for your cooperation. Please feel free to call me or Tom Kahn should you or your staff have any questions.

Sincerely yours,


John M. Spratt, Jr.
Chairman

QUESTION #1: What types of Customs employees are involved in textile enforcement activities?

ANSWER: Employees involved in textile enforcement are as follows:

Commercial Operations

Import specialists, regulatory auditors, laboratory textile technologists, laboratory chemists

Enforcement

Special Agents and intelligence research specialists

Inspection and Control

Customs inspectors, mail specialists, canine enforcement officers, customs aides, and operational analysts

QUESTION #2: Please provide a breakdown of the number of full and part-time employees working on textile enforcement issues for: 1973, 1977, 1982, 1987, 1993, and 1994 (est.).

ANSWER: Attached is Table 1 for FY 1993 and estimated for FY 1994 showing the numbers of employees working on textile enforcement issues. For the prior fiscal years, no historical staffing data is available broken down by textile and non-textile enforcement activities.

TABLE 1

U.S. CUSTOMS SERVICE
EMPLOYEES AND STAFF YEARS FOR
TEXTILE ENFORCEMENT ACTIVITIES

	Fiscal Year 1993				Fiscal Year 1994 (Estimated)			
	Full time	Part time	Total	Staff Years	Full time	Part time	Total	Staff Years
<u>Commercial Operations 1/</u>								
Import Specialists	235	185	420	345	235	185	420	345
Regulatory Auditors	0	50	50	12	0	50	50	13
Laboratory Personnel	17	24	41	30	17	24	41	32
<u>Inspection and Control 2/</u>								
I&C Personnel	n/a	n/a	n/a	148	n/a	n/a	n/a	148
<u>Enforcement 3/</u>								
Special Agents	n/a	n/a	n/a	60	n/a	n/a	n/a	60
Intelligence Research Specialists	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a

1/ Commercial Operations is the only activity where Customs can collect specific data on employees directly assigned to textile enforcement activities.

All commercial operations employees included in these statistics are full time; however, the numbers indicate those who work only on textile and those that only spend part of their time on textiles.

2/ I&C personnel are not assigned to specific commodities. The staff years provided were derived by applying the percentage of textile related formal entries to the number of I&C personnel involved in commercial activities.

3/ Enforcement staff are not assigned specifically to textile enforcement activities. Staff hours for special agents are, however, collected for the amount of investigative time involved with textile enforcement activities.

QUESTION #3: Please provide a table showing staff year estimates for the data requested in question #2.

ANSWER: Staff year data is shown on Table 1.

QUESTION #4: Please explain the textile enforcement job responsibilities for the types of employees identified in question #1.

ANSWER: The following job responsibilities are noted as requested.

Commercial Operations

Import Specialists are responsible for reviewing and determining the validity of documentation submitted by the importer for release of merchandise, duty and classification. For example, merchandise can be denied entry if the visa is invalid. Import Specialists also visit the importer's premises to verify that documentation is accurate and that importers are complying with all laws. Finally, Import Specialists review import data for trend analysis which may indicate undervaluation of textile merchandise. Reviews are also conducted for country of origin marking, safety and environmental laws.

Regulatory Auditors establish the accuracy of accounts and records of firms doing business with Customs. These audits generally involve importers filing over 50 entries or more a year with Customs, as well as drawback claimants, Customs Brokers, Warehouse and Foreign Trade Zones. Audits are conducted to protect government revenues, ensure compliance with Customs laws and regulations, and protect the rights of the public transacting business through intermediate parties, such as customhouse brokers and bonded warehouse proprietors.

Laboratory scientists analyze textiles for fiber content, denier of fibers/yarns, fabric count, fabric/garment construction, stitch count, yarn twists, thread used in stitches and stitch length, dye and color characteristics, etc. Textile products are analyzed for evidence for label removal/replacement. Comparison analysis of one garment of known manufacturing source and country of origin to that of another garment claimed to be from that source is performed. Scientists study fabric surface characteristics and finishing processes, such as acid-washed jeans, for the purpose of determining country of origin.

Enforcement

Special Agents investigate alleged textile-related violations and participate on production verification "jump teams." These Special Agents also conduct criminal and civil investigations and interdictions involving violations of Customs laws. Investigations usually involve historical conspiracies and individuals, organizations, and business firms located around the world. For this reason, U.S. Customs has established 23 foreign offices staffed by Special Agents to conduct foreign investigations. Special Agents assigned to these foreign offices also provide on-site assistance during production verification "jump teams" visits to exporters and foreign industries regarding U.S. import laws and regulations.

Intelligence Research Specialists are responsible for the collection, analysis and dissemination of information related to all violations within a program area, e.g., fraud. Occasionally, Intelligence Research Specialists are assigned to special operations. In the textile transshipment area, Intelligence Research Specialists are assigned to Operation Q-Tip.

Inspection and Control

Customs Inspectors, Mail Specialists, and Canine Enforcement Officers perform manifest and entry document reviews; perform intensive examinations for proper descriptions, quantities, Intellectual Property Rights (IPR) compliance and country of origin marking; and detect smuggling of prohibited or controlled substances. Customs Aides assist in the performance of these functions.

Operational Analysts gather and assess intelligence. These analysts then target for possible textile violations such as false markings, IPR violations, transshipment, products of forced labor, etc. by creating Cargo Selectivity and AMS manifest criteria on suspect shipments, importers, manufacturers, commodities, and countries of origin.

QUESTION #5: What number of Customs employees were assigned to operation Q-TIP in FY 1993? Please provide numbers by job classification. Please estimate the same information for FY 1994.

ANSWER: The following table shows a breakdown of Customs personnel assigned to operation Q-TIP:

<u>Job Classification</u>	<u>FY 1993</u>		<u>FY 1994</u>	
	<u>FT</u>	<u>PT</u>	<u>FT</u>	<u>PT</u>
Special Agents	16	10 a/	22	3
Import Specialists	5	0	4	1 b/
Regulatory Auditors	2	2	1	2
Intell. Research Spec.	0	2	0	1

a/ Five of the 10 agents listed as part-time were not assigned to operation Q-TIP until approximately March, 1993. From March 1993 through September 1993, those agents were assigned full-time to operation Q-TIP.

This data does not include additional personnel who assisted in numerous short-term investigative and enforcement activities under operation Q-TIP, such as executing search warrants, making seizures, etc. More than 500 special agents have participated in operation Q-TIP enforcement activities nationwide. Those agents extended over 56,306 man-hours in FY 1993. Only those personnel who were formally assigned to the operation Q-TIP investigations were included in the above listing.

b/ This import specialist is assigned full-time until April 1994.

QUESTION #6: Please provide a description of the duties for each job classification identified in question #5.

ANSWER: Operation Q-Tip typifies the multi-disciplined enforcement effort which Customs fraud violations require.

Special Agents are criminal investigators whose primary function is to conduct criminal and civil investigations of violations of the Customs laws, illegal narcotics laws and other laws of the U.S.

Import Specialists appraise and classify imported merchandise and review Customs entries to ensure that all import requirements are met and that proper customs duties are assessed.

Regulatory Auditors analyze business accounting records to verify the cost of foreign merchandise, actual quota charges paid, and all other financial charges/costs related to the importations under investigation.

Intelligence research specialists (IRS) collect and analyze trade-related information, including open source, classified, automated commercial system and TECS information related to all violations within Customs jurisdiction. With respect to textile transshipment and trade issues, Customs IRSs develop analytical reports which are used by Customs offices to develop coordinated action plans in response to identified threats.

QUESTION #7: Please provide a table showing the Customs Service budget in constant dollars for the following fiscal years: 1973, 1977, 1982, 1987, 1993, and 1994 (est.).

ANSWER: See the attached table.

TABLE 2

United States Customs Service
Salaries & Expenses Appropriation
(\$000)

	Appropriation Actual \$'s	CPI /1	Appropriation 1982 \$'s
1973	\$212,978	40.60	\$340,541
1977	\$292,400	55.90	\$423,638
1982	\$527,173	100.00	\$527,173
1987	\$840,186	119.10	\$890,899
1993	\$1,331,428	153.60	\$1,333,341
1994 est./2	\$1,350,668	155.60	\$1,349,520

/1 CPI of services less medical services with base year 1982.

/1 Source—the Economic report of the President February 1994

/2 CPI : Figure for 1994 based on the December 1993 number.

QUESTION #8: Why is the Budget Request \$3 million more than the \$15 million that the President committed to Congressman Spratt for textile enforcement?

ANSWER: A proposal for a \$15 million trade enforcement initiative was expanded to include 50 more positions, primarily for textile enforcement. The increased staffing has necessitated a \$3 million increase in funding request.

Although Customs has an extensive commercial enforcement strategy, this initiative represents a new integrated, targeted approach. The additional positions will focus on textile enforcement, however these positions will not be mutually exclusive from the enforcement of NAFTA. Altogether, the 186 positions will ensure that all aspects of the NAFTA provisions will be enforced along with making sure that our textile industry is not harmed from any unfair trading practices.

Mr. WEISE. Well, a good number of them, unfortunately, will be coming from the reduction in our air and marine program. We are going to have a significant reduction in both. We are going to, wherever we can, try to accommodate the individual, so that we lose positions but try not to have a disruptive impact on people. If we can accomplish that through attrition, we will try to do that.

Mr. SPRATT. Where will you put the additional textile people? Let's talk first about NAFTA. Will these be import specialists, will they be inspectors at the border, will they be investigative agents, and where will they be located?

Mr. WEISE. Mr. Chairman, we are undergoing a process right now where we are working with all of the key managers and trying to make sure that we have the appropriate allocation, and we would be more than happy at the appropriate time—we are not prepared to do this at this point—to sit down with you or your staff and show you specifically what our recommendation would be in terms of allocation of these resources.

Mr. SPRATT. We had a response to this on February 15 which indicated that the additional full-time equivalents would include 50 auditors, 70 import specialists, 40 special agents, 10 inspectors, and 16 trade analysts.

Mr. WEISE. In terms of the overall numbers, those are correct, and those are consistent with the commitment that was made in the letter, sir. What I thought you meant is how we would allocate those in terms of geography and various offices, and that is something that we could meet with you privately and discuss.

Mr. SPRATT. OK.

So we will be able to determine that from this baseline, going from 420 we can add another 100 FTE's to the 420 who are dedicated and earmarked to textile and apparel enforcement. Once you get this implemented, that number will be 520 instead of 420 FTE's.

Mr. WEISE. That is correct.

Mr. SPRATT. And the composition will be generally what you have submitted here.

Mr. WEISE. Yes.

Mr. SPRATT. And I take it the 50 who are dedicated to NAFTA will be in the southwest territory close to the border.

Mr. WEISE. Yes.

Mr. SPRATT. Are you locating the others in the ports where the problems seem to be worse?

Mr. WEISE. Yes. We are doing an analysis now to find out where the high occurrence of textile fraud is, where the high volumes are, where the importers that are doing much of the business are located. We have a number of factors that are being looked at to make the best judgment possible as to where we can get the most from these additional resources.

Mr. SPRATT. Well, I looked at your budget submission. It seemed that only a fraction, about a third, is really for personnel expense. Of the \$18 million you have allocated to pay for this initiative, only about a third really goes to personnel compensation and benefits, the balance goes to transportation, rent, communication and utilities and contracts, for example. What would contracts pertain to? Am I reading the right line here?

Mr. BANKS. I am not sure which one you are reading from.

Mr. SPRATT. I am reading your budget submission, NAFTA enforcement, NAFTA/textile enforcement, and then at the bottom of that submission: The funding for this program by object class is as follows: Personnel compensation and benefits, \$6,197,000; travel and transportation, \$2,970,000. I take it that goes to jump team activities largely.

Mr. WEISE. Yes. Clearly the travel and transportation obviously is a very high number because of the jump teams. What we are trying to do, as I indicated, is significantly increase not only the number but the volume of jump team occurrences. So that is going to be up to 42 per year. So we would expect a very high component in terms of travel and transportation.

The contracts we are struggling with at the moment, but we will provide that directly to you for the record.

[The information follows:]

Contracts in the NAFTA/Textile Enforcement Initiative

Customs FY 1995 Budget Submission respresented our initial plan to most effectively meet the requirements of an upgraded NAFTA/Textile enforcement program. However, after having discussions with your staff, we have reformulated the initiative to better meet the growing potential problem of NAFTA/Textile violations. The reformulated resources are as follows:

186 new FTE	\$12,481,000
Enforcement ADP PCs/terminals	\$2,300,000
Other Enforcementnt ADP equipment	\$2,000,000
Technical surveillance equipment	\$450,000
Special operations	\$350,000
Training & assistance of foreign customs officers	\$419,000
Total	<u>\$18,000,000</u>

With this new funding mix, Customs will be better able to protect our domestic industries.

Mr. SPRATT. And equipment, is this just office equipment, \$3 million of equipment?

Mr. BANKS. Sir, that is mainly computers and LANS for some of these people to be able to do the targeting, to be able to analyze the trade trends—you know, which countries are beefing up, are we seeing surges of, in terms of imports from certain countries—so we know where to send the jump teams to and so we know which importers that we want to go out and do compliance reviews on. It is more along that line in terms of the equipment.

There is some enforcement equipment in terms of surveillance-type equipment and wiretapping because we also do that in terms of our criminal activities. So it is a mixture of that.

Actually, the total personnel compensation out of this thing comes closer to about \$12.5 million, and I apologize, there may be some confusion on those numbers.

Mr. SPRATT. So the personnel costs, base personnel compensation benefits is \$12 million.

Mr. BANKS. About \$12.5 million, yes, pretty close to that.

Mr. WEISE. And I am informed that the contracts basically relates to training, which is going to be very important in this overall initiative as well, both domestic and international, to try to get greater cooperation among other governments on helping to stop the transshipment before it occurs.

Mr. SPRATT. So you contract out the training?

Mr. WEISE. It is the same budgetary account, but I think we will be doing the training internally.

Mr. SPRATT. You do it internally, but you charge it up as a contract?

Mr. WEISE. Apparently that is the way it is reflected in terms of the budget, but it is an internal training.

Mr. SPRATT. We requested the amount of effort committed to Q-TIP, which is one of your concentrated compliance initiatives to bear down on transshipment and circumvention violations, and you supplied that to us and indicated that in 1992 there were about 100,000 hours committed to Q-TIP. In 1993, last year, there were about 56,000 hours committed to Q-TIP. Why the fall-off?

Mr. WEISE. Let me answer basically, and then if someone has more to elaborate, I may bring someone else to do that. But basically my impression is that in the early going of investigation there was an awful lot of leg work, ground work, that had to be established in terms of wiretaps that was very man-hour intensive. Once we got a lot of that established, then it required fewer man-hours to continue the case than it did to get the case off and running. But I have someone here that maybe could elaborate on that.

Mr. WALTON. For the record, Mr. Chairman, I am Leonard Walton, and I am Director of Foreign Operations for the Office of Enforcement, U.S. Customs Service.

Initially in Q-TIP, there was a substantial devotion of man-hours to do the base work that led up to the execution of the warrants and whatever, and then, in fact, in terms of hours committed, that time fell off as the investigation went into its more routine phase.

But in fiscal year 1993, we had 16 full-time special agents and 10 part-time committed to Q-TIP. For fiscal year 1994, we have

gone, in fact, to 22 full-time agents and 3 part-time, plus we have added import specialists, auditors, and research and analysts, or intelligence analysts. So actually our total resource commitment in that regard has actually gone up, it has not gone down.

Mr. SPRATT. What about other projects like Q-TIP? Have you given any consideration to just testing the level of violation, something on the lines of Operation Tripwire, by having another concentrated effort in ports where you suspect there is a large volume of circumvention and evasion?

Mr. WALTON. In fact, Mr. Chairman, there are several of these under way now. Q-TIP actually led to—although it was based in New York—several other enforcement endeavors based on information we got out of it. Actually their investigations, a substantial number of them in several ports all over the United States right now on basically the same model, and some of these cases are in fact proceeding, plus we have a couple of international efforts with other countries that are strictly enforcement based, and those are ongoing.

Mr. SPRATT. You referred in your testimony to an ongoing project with the OTEXA in the Commerce Department, a recent initiative. Could you elaborate on it?

Mr. WEISE. I will call on Mr. Banks, who has been directly involved in this, I think, the initiative, the CITA.

Mr. SPRATT. OK.

Mr. BANKS. Yes, sir, we have been working with CITA very regularly. In the attempt to go out in our ports and focus in on the really high-risk shipments, to take our resources and zero in on those, one of the things that we have to contend with is this tremendous volume of paper that comes in just to do the normal processing of all the textile and apparel imports into the United States. What we try to do is streamline this process significantly and work up some pilots, some experiments. We are trying to do this hand in hand with CITA so that we lay down exactly, you know, what criteria we are going to use. We come up with a baseline as to how a particular port is operating, and we set up joint evaluation criteria to determine if these different processing mechanisms work. We are experimenting with things like taking low-value shipments and spending less time—you know, maybe allowing some of the low-value shipments to be expedited through the process.

We are trying to send our import specialists out to preclassify goods and work with a company in order to make sure that their records are accurate and that they give us good data. We can spend less time devoted to reviewing their documentation when it crosses, and instead we can free our people up to go out and do compliance reviews on those people that we don't know quite as much about. That is one of the things that we are in the process of working cooperatively with CITA on.

As a matter of fact, Rita Hayes, the Chairman of CITA, is in Los Angeles, I believe, or San Francisco today, reviewing one of these pilot programs to determine if it will satisfy the trade policy needs, because they are our customer as much as anyone else.

With CITA we have developed a memorandum of understanding on the exchange of information because CITA, from a trade policy perspective, in their negotiation with these other countries, has to

have concrete information to say whether or not they are complying with the bilateral agreements.

CITA wants to know how many actual transshipments occurred that could be charged back to that country in case there were violations, so we have developed a forum and a mechanism to try to keep CITA updated on a regular basis as to this information.

Mr. SPRATT. We had Jennifer Hillman and Rita Hayes at a hearing which you attended a couple of months ago. The feedback we get from CITA, and everybody agrees, the MOU is a decided improvement. It brings your relationship to a much higher plane, but there is still work that needs to be done on the flow of information from Customs. Apparently their complaint is that once you develop jump team results, the enforcement wing of Customs tends to assert its jurisdiction and primacy. Suddenly the information gets impressed because it is potentially criminal in nature. There is a long time between the development of this information and the furnishing of the information to CITA so that they can act upon it and are charged back, take some administrative action that can be taken ahead of a criminal action, which may or may not be undertaken in any event.

Mr. BANKS. This has probably been the most difficult issue that we have had in terms of trying to satisfy all the concerns that CITA has raised. That is, the amount of time it takes between the time we discover what we think is a violation, and when we can make this information available, so either publicly chargebacks can be made or they can use this information in the negotiations.

One of the things that we are doing right now is completely reviewing our enforcement policies in this regard. I don't want to make an absolute commitment here at this point, but what we are trying to do right now is, when we open a case, to almost set a trigger after a year. At the end of a year, we should know what is going to happen with that case.

I mean these are our outside time limits, and so at the end of a year we are either going to take that case to the U.S. attorney and see if they are willing to prosecute the thing. If they are not willing to, then we are going to give the case over to our district directors to initiate penalty cases. So that is going to be our trigger point this year period.

I don't want to convey to you that CITA is going to be satisfied with that, but that is currently what we are working on in order to address this issue.

Mr. SPRATT. Of course the problem is that a lot flows over the dam in between the detection of the problem and when you finally decide what action is going to be taken upon it. We all know—you better than I do—but I have dealt with U.S. attorneys and the Justice Department getting a criminal prosecution initiated from the point of detection, particularly one of these complicated cases where it is not like a murder case or some flagrant criminal violation of the law. You have to convince Justice to undertake the prosecution. It might be a high profile defendant; there may be questionable evidence. It is awfully difficult to get a resolution of this in a short period of time.

In the meantime, if you could act upon it administratively, you could achieve the deterrent effect of letting importers and retailers know that this kind of practice won't be tolerated.

Mr. BANKS. Yes, sir, except, one of the problems that we have is, when we go out and do a jump team, and we find what we are pretty sure is a transshipment, and maybe we could say that we think that that is enough evidence that we could even take it to that company.

One of the things that we would like to be able to do is trace it back to its source. That doesn't happen quickly. You have got to get all the documentation, you have got to sort through the documents, there are translations involved. Then sometimes we take it from a Caribbean country to a Southeast Asian country and then try to trace it back to its ultimate source. The problem is, that just doesn't happen overnight.

If we publicly disclose that, or if we even use it in negotiations, it is going to be much less likely that we are going to be able to trace it back to its ultimate conclusion, because the people involved are going to know, and we will have destruction of records and a variety of other things. So it is a balancing act that we are trying to deal with.

Mr. SPRATT. You say that if you decide not to prosecute, then you will refer it to the district Customs administrator for a penalty case. As I understand it, the penalty is usually a maximum of 20 percent of the value of the goods.

Mr. BANKS. Actually, it depends on the level that we go out at. If it is a 592 penalty, we can go out at the level of fraud initially. A fraud penalty is typically eight times the revenue loss or it is 80 percent of the value.

Mr. SPRATT. Now this would be a case where they misdeclared or underrepresented the cost of the goods.

Mr. BANKS. And we believe that there was an intentional, you know, a willingness on the part of the parties involved, typically the importer, to have taken such action. Fraud is probably the maximum level of culpability.

There is another level of culpability called gross negligence which is the next stage down, and obviously the multiples on the times of revenue decrease as you go through this. There is also simple negligence, where I believe it is two times the duty and 20 percent of the value. To be candid with you, a lot of the cases end up there.

Mr. SPRATT. Is 20 percent enough of a deterrent, given the markup that is available in low-cost textile and apparel imports?

Mr. BANKS. Well, one of the things that you have sent us back to the drawing board on, one of these proposals that you asked for in this letter, is to review our mitigation guidelines and to publicly go out and modify it. That is one of the ones that we will be meeting the deadline on as of April 1.

Mr. SPRATT. And when you wrote on February 16, you referred to proposed statutory enhancements to our enforcement activities. Does that have to do with penalties?

Mr. BANKS. Yes, sir, it does. We have proposed some other legislative initiatives in which we were looking at increasing the level of both criminal culpability and civil liabilities from importers and

from other parties in the process such as brokers and things like that. So we are looking at other statutory issues as well.

Mr. SPRATT. I think we have got one particular case which can be discussed now because it seems to be concluded, and that is the Gitano case. This is a salutary example of how a successful prosecution can have deterrent effects that far exceed what you can achieve through detection by inspecting more containers. I would think that Gitano's example has probably not been lost on a lot of companies that might be inclined to do some of the things they were caught and convicted of doing.

It also indicates that when we can nab the domestic culprit, the importer, the retailer, the company in the United States responsible for this, hold them up to public obloquy and then have them lose customers like Walmart, you send a very, very significant signal to anybody who might be disposed to undertake these signals.

Therefore, it would seem that one of the statutory enhancements you would want to implement is to try to reach some of these co-conspirators, some of these domestic counterparts to this international trading fraud, so that the message can come home to the beneficiaries here in America that this stuff doesn't pay.

Mr. BANKS. Yes, sir, that is absolutely correct. In fact, I know there are some people that are even looking at acquiring Gitano, and one of the things that they have come to talk to us about is, how can they absolutely ensure that everyone that is out there in that purchasing process and the rest of it follows the rules exactly.

So it certainly does send a message out. I will say to you that with the commitment on additional resources toward textile enforcement, one of the areas that we are emphasizing very strongly is compliance reviews of the importers and retailers. We will be spending more time with investigators, auditors, and import specialists reviewing their procedures, reviewing their documents, their books, and their records to turn up the heat on this transshipment issue.

Mr. SPRATT. When you promulgate these additional regulations, will there be an effort to reach further into the domestic economy and get these co-conspirators, these domestic culprits who are part and parcel of the whole scheme of defrauding Customs?

Mr. BANKS. They will increase the liability level of the people involved in the process. So I presume it would have that natural effect, yes, sir.

Mr. SPRATT. We have abundant anecdotal evidence. It is hard to sum it up and know what it amounts to, but we have lots of evidence from talking with your Customs agents, import specialists, and others, to the effect that transshipment is only part of the problem. It has gotten a lot of the attention. You have given it an extrapolated value of \$2 billion to \$4 billion annually in terms of circumvention and evasion, total circumvention and evasion, but they tell us that misdeclaration of goods, misclassification of goods, undervaluing of goods, is just as rampant a problem as transshipment and it may have equal, even greater dollar value to it.

Would you agree with that estimate, or can you put any sort of estimate on the extent of fraud other than transshipment that is occurring today?

Mr. WEISE. This gets back, Mr. Chairman, to the concern that Mr. Horn expressed earlier where there are a lot of hunches about how bad it is. We haven't historically had the kind of measurement ability that we are attempting to establish now. We are going out to many, many different ports and specific commodity areas and doing 100-percent snapshots so we can get a good sense of where the compliance rates are high and where they are low.

Interestingly enough, we have embarked upon several textile-related snapshots. There is one in Los Angeles that took place and in New York, and we were, I guess, pleased that the overall compliance rate wasn't as bad as perhaps many thought it could have been. We will supply all the details for the record. For example in New York, on wearing apparel and accessories, knitted or crocheted—it is a specific product commodity that they looked at—the overall compliance estimate was somewhere around 86 percent, a range of 82.7 to 89.3. Their assessment was that the potential revenue loss from that snapshot was less than 1 percent and that the quota compliance was that we exceeded 95 percent.

Now that particular snapshot wouldn't have identified transshipment. What they were basically saying is that when they examined the goods to make sure if it was supposed to be a wearing apparel, knitted or crocheted, of a particular fabric, that indeed it was, that the visa was there from the country that was declared and it was an appropriate visa, and that the proper value was declared.

So that is better than we thought, and we are trying very hard to find out where it is low and where we can make it better.

A similar example took place in Los Angeles with another particular textile commodity in chapter 62, another type of wearing apparel, not knitted or crocheted, and we had an overall compliance estimate around 90 percent. It ranged from 86.3 to 93.7. Once again, the potential revenue loss was less than 1 percent, and our quota compliance once again exceeded 95 percent.

In San Francisco, we looked at needle craft sets, worn clothing, rags, and other textiles, another particular subcategory. Again, the overall compliance estimate was 81 percent. It ranged from 75.4 to 86.6. Once again, the potential loss of revenue was less than 1 percent. Quota compliance exceeded 95 percent.

So I think we are doing a pretty good job, but I think we can do better, and I think we need to do more of this compliance measurement around the country. We need to do more 100-percent snapshots so that we can get a better sense of how we are doing, and we are attempting to do that, sir.

Mr. SPRATT. Thank you.

[The information follows:]

COMPLIANCE MEASUREMENT OF TEXTILES

In FY 1993, Customs tested a new methodology for providing measurements of compliance of imports. This methodology is based on scientific, statistically valid sampling of industries. The report on our efforts has been thoroughly reviewed, printed and will be sent to the relevant committees of Congress. The methodology utilized was the result of extensive consultations with the GAO on how to address some of the shortcomings they had articulated in several reports. The methodology continues to be refined and will enable Customs to provide more extensive compliance reports as mandated by Section 691 of NAFTA.

In FY 1994, every Customs District was involved in at least one compliance measurement project. This served the dual purpose of providing compliance measurements of key industries and training the field personnel on how to utilize the statistical concepts required for accurate measurement. The first extensive industry test for FY 1994 was textiles.

On October 1, 1993 a year-long measurement of aspects of textiles was implemented in the New York Region and the districts of Los Angeles and San Francisco. These field locations were chosen due to the significant import volume, representational cross-section of importers and the previous experience with the compliance measurement methodology. A rotational measurement system between locations was decided upon to provide, at years end, the best analytical value of the data collected. The first measurement cycle was knitted or crocheted wearing apparel and accessories (HTS Chapter 61) for 60 days in New York; wearing apparel and accessories not knitted or crocheted (HTS Chapter 62) for 60 days in Los Angeles; needle craft sets, worn clothing and textiles, rags, and other textile articles (HTS Chapter 63) for 120 days in San Francisco.

The first cycle for New York and Los Angeles has been completed and the reports compiled. The measurement period for importations in San Francisco is complete, however, entry summary data is still be tabulated and analysis of all data has not been finalized.

It should be stressed that the ongoing measurement of textiles will provide statistically valid estimates of compliance of the up-front processing, entry and entry summary, from data provided at the port of entry. *The measurement would not detect transshipment.* The measurement would not include follow-on activities such as audits or investigations. Future measurements of textiles will be conducted after analysis of the final report and upon consultation with the textile industry.

FIRST CYCLE OF FY 1994 TEXTILE COMPLIANCE MEASUREMENT

Measurement conducted using a
 95% CONFIDENCE LEVEL;
 +/- 3% TOLERANCE MARGIN;
 99% COMPLIANCE ASSUMPTION.

CONFIDENCE LEVEL: A statistical principle on how confident you want to be that the sampling is correct. 95% is an accepted norm. The higher the Confidence level, the greater the sample required.

TOLERANCE MARGIN: How exact do you want the sampling to be. Plus-or-minus 3% is an accepted norm. This means the sampling is set up to provide results that may be off by plus-or-minus 3%. The tighter the Tolerance Margin, the greater the sample required.

COMPLIANCE ASSUMPTION: An assumption on how much compliance there is in what you are trying to measure. For Customs this is represented by an assumption on the compliance of imports within the parameters being measured. The lower the compliance assumption, the greater the sample required.

Note: Utilizing a high compliance assumption is the least impediment to importers and local operations. The broad compliance range estimate resulting from a high compliance assumption and non-compliant findings can be tightened by follow-up measurements.

HTS CHAPTER 61

WEARING APPAREL & ACCESSORIES:
KNITTED OR CROCHETED

	<u>New York</u>	<u>San Fran*</u>	<u>LA</u>
Import value for period	\$590,530,887.		\$527,078,083.
Overall compliance estimate	82.7-89.3%		90.7-95.3%
Potential revenue loss	\$291,030		\$1,533,521
Potential revenue loss %	less than 1%		approx. 1.7%
Potential Trade Statistic errors	1,034		1,279
Potential Trade Statistic error %	3.9%		3.8%
Quota compliance	exceeds 98%		exceeds 98%

Country of Origin Compliance Estimates:

CHINA.....	91.1-99.9%	93.7-97.5%
HONG KONG.....	71.1-94.9%	89.3-99.9%
INDONESIA.....	74.6-96.8%	77.7-97.9%
KOREA.....	69.3-94.3%	85.9-99.9%
MALAYSIA.....	70.4-94.5%	85.0-99.9%
PHILIPPINES.....	70.6-94.5%	85.3-99.9%
SINGAPORE.....	81.5-98.5%	83.9-99.9%
TAIWAN.....	77.1-99.1%	86.4-99.9%
THAILAND.....	75.0-96.3%	88.2-99.9%
REST-OF-THE-WORLD.....	79.4-99.3%	77.3-95.4%

** - Entire Measurement Ongoing, No Interim Reports Available*

HTS CHAPTER 62

**WEARING APPAREL & ACCESSORIES:
NOT KNITTED OR CROCHETED**

	<u>New York*</u>	<u>San Fran</u>	<u>LA</u>
Import value for period	\$2,676,011,897.	\$77,019,806.	\$576,777,442.
Overall compliance estimate	95.2-98.6%	79.9-87.1%	86.3-93.7%
Potential revenue loss	\$96,847	\$41,910.	\$67,319.
Potential revenue loss %	less than 1%	less than 1%	less than 1%
Potential Trade Statistic errors	1,990	1,047	1,122
Potential Trade Statistic error %	1.3%	8.0%	3.5%
Quota compliance	exceeds 98%	exceeds 98%	exceeds 98%

Country of Origin compliance estimates:

CHINA.....	94.1-99.9%	65.9-92.3%	87.5-99.9%
HONG KONG.....	88.8-99.9%	69.5-92.9%	76.5-97.9%
INDONESIA.....	87.9-99.9%	64.6-91.0%	86.2-99.9%
KOREA.....	99.0-99.9%	51.2-79.0%	79.0-99.2%
MALAYSIA.....	92.9-99.9%	78.3-98.7%	85.8-99.9%
PHILIPPINES.....	99.0-99.9%	84.6-99.9%	99.0-99.9%
SINGAPORE.....	92.2-99.9%	99.0-99.9%	87.3-99.9%
TAIWAN.....	88.5-99.9%	84.1-99.9%	86.9-99.9%
THAILAND.....	86.8-99.9%	56.5-85.7%	79.0-99.9%
REST-OF-THE-WORLD.....	91.1-99.9%	64.9-92.3%	85.5-99.9%

*** - Entry Summary Review & Analysis Ongoing**

HTS CHAPTER 63

NEEDLE CRAFT SETS, WORN CLOTHING, RAGS AND OTHER TEXTILES

	<u>New York</u>	<u>San Fran</u>	<u>LA*</u>
Import value for period	\$81,309,385.	\$38,059,300.	\$125,456,987.
Overall compliance estimate	85.8-93.4%	75.4-86.6%	82.7-89.5%
Potential revenue loss	\$228,774.	\$107,621.	\$12,702.
Potential revenue loss %	less than 1%	less than 1%	less than 1%
Potential Trade Statistic errors	367	137	175
Potential Trade Statistic error %	4.0%	5.6%	3.0%
Quota compliance	exceeds 98%	exceeds 98%	exceeds 98%

Country of Origin compliance estimates:

CHINA.....	78.7-99.1%	70.7-94.5%	82.5-98.5%
HONG KONG.....	87.8-99.9%	86.9-99.9%	71.0-88.9%
KOREA.....	59.0-89.3%	74.7-95.7%	78.8-98.5%
TAIWAN.....	73.0-99.9%	67.2-91.8%	61.7-86.5%
THAILAND.....	81.7-99.9%	79.8-99.9%	88.5-99.9%
INDONESIA.....	89.6-99.9%	**	70.5-94.6%
PHILLIPPINES.....	80.2-99.9%	**	86.3-99.5%
REST-OF-THE-WORLD.....	92.7-99.9%	51.4-81.9%	78.7-96.3%

* - Entry Summary Review & Analysis Ongoing

** - No Specific C/O Measurement Completed

Mr. SPRATT. I have a few more question, but let me turn to Mr. Cox and Mr. Horn, and then we will wrap up in just a few minutes.

Mr. Cox.

Mr. COX. Thank you very much, Mr. Chairman.

Let's move, if we may, to the CFO Act. It is one of the things I know the subcommittee asked you to address and you did address in your response. How many full-time staff does Customs devote to CFO Act compliance?

Mr. WEISE. I am being told 12 in the background. But I think your question is how many total to the CFO Act.

Mr. COX. No. What I mean is, apart from what Customs does anyway, how many people have as their exclusive job description the CFO Act compliance?

Mr. WEISE. I will turn to Tom Diaforli from our Finance Center.

Mr. DIAFORLI. The total number of people that is assigned to work in the preparation of financial statements currently is 12 full-time employees. We have detailed to that an additional eight.

Mr. SPRATT. Could I interrupt?

Mr. COX. By all means.

Mr. SPRATT. There is a request for 12 FTE's in fiscal year 1995.

Mr. WEISE. That would be 12 additional.

Mr. SPRATT. Twelve additional.

Mr. COX. So the number that you have given me is a snapshot as of this point during fiscal year 1994.

Mr. DIAFORLI. That is correct for the preparation of the final report for fiscal year 1993.

Mr. COX. And the detailees are from some other agency?

Mr. DIAFORLI. No, sir; they are from the U.S. Customs Service, Office of the Comptroller, and Office of Management.

Mr. COX. And why do we separate them from the 12 if they are also working full time?

Mr. DIAFORLI. Because the 12 individuals that are full time are located in Indianapolis where the statements are currently being put together. These other detailees are from—two are from the payroll branch which is in Indianapolis, which is in the Office of Management, and there are six individuals that are dedicated to this project from Washington, and they have worked in Washington, and they are also in transit back and forth from Indianapolis to assist.

Mr. COX. OK, but 20 is then the fair number for the total?

Mr. DIAFORLI. At the present time, yes, sir.

Mr. COX. And if you don't have these numbers off the top of your head, I will understand, and perhaps you can send them to us. But do you have knowledge of what the figure would be for 1993, 1992, and 1991?

Mr. DIAFORLI. The number for preparation of the 1992 financial statements was 12.

Mr. COX. OK, and how about 1993?

Mr. DIAFORLI. For 1993, it is 20.

Mr. COX. Twenty, and 1994 is 20.

Mr. DIAFORLI. That is correct.

Mr. WEISE. The confusion is that you are dealing with the prior fiscal year, so the fiscal year 1995 budget will authorize 12 additional people who will be dealing with the fiscal year 1994 CFO

year. In other words, they are dealing with the prior year, so the number—if I am correct, Tom—will be 32 that will be working on the fiscal year 1994 CFO report.

Mr. COX. All right. Maybe I can make our life easier by washing out altogether budgets and just talk about fiscal years and how many people during those fiscal years were working on it.

In fiscal year 1993 which ended last year.

Mr. DIAFORLI. The total was 12, sir.

Mr. COX. OK. And currently it is 20, and in 1992 it was—

Mr. DIAFORLI. We were not required to do anything under the CFO Act in 1992.

Mr. COX. Do you think it was zero?

Mr. DIAFORLI. No, sir, we were preparing for the act so I would say it was 12.

Mr. COX. The act passed in 1990?

Mr. DIAFORLI. It passed in November 1991.

Mr. COX. All right. The reason I ask is, I am trying to get a feel, agency to agency, as we monitor compliance with the CFO Act, how many people it takes and whether the resources being devoted are, in fact, adequate.

The Customs action plan suggests that not before fiscal year 1997, for example, will we be able to develop the core financial systems used in preparing the financial statements. We will not certainly before that time, as a consequence, have financial statements which in full pass muster with the auditors or which comport with our overall review figures.

It strikes me as a long time. I realize in government time it is not that long. But in the business world, if someone took over an enterprise and found that it had malfunctioning or missing internal controls, they would probably devote full time for the next 3 months to put them in place and then move on because you would lose so much money if you didn't have a good control system for management purposes.

So I am concerned that 1997 is a ways off, and I wonder if you could tell me what hope we have of perhaps advancing that date. I know you said that you are advancing that date. I know you said that you can't do it before fiscal year 1995 at the earliest. The action plan says 1997 for a variety of things. How much realistic hope is there that we can be on the early side rather than the late side?

Mr. WEISE. Congressman, I share your frustration. I ask this question of my people more than any other question, and I am trying everything I can do to make sure we meet the requirements for fiscal year 1995. Secretary Bentsen has made it perfectly clear to me that he expects it sooner rather than later. The reason I was a little bit reluctant to respond to your question in terms of how many people are devoted is because there are clearly many, many more than 20 people. The 20 people are actually just the final stage of the process of doing the statements, and one of the reasons I think that we have done poorly in this exercise in the past is, there wasn't a buy-in from all levels of the organizations.

Clearly if bad information, if bad inventory techniques, bad record keeping is taking place in the field, it wouldn't matter if you had hundreds working at our national finance center, we would

still not have a good report. One of the things that we have made a conscious effort in Customs in the last several months, ever since we received the first report, is just making sure that everyone in the organization understands the responsibility under the CFO Act from the GS-5 at the working level that is making the notation when a merchandise either goes in or out of inventory, right up through our entire organization. We are now making clear to all managers, regional commissioners, district directors, SAC's and RAC's that they have an important responsibility to help this organization improve our CFO performance. With our whole financial recordkeeping, we have had numerous meetings where we have brought GAO people in, and Treasury people. There is now a clear awareness within our organization that we are flawed in this area, and everyone understands that they have a responsibility to do much better. I am very optimistic that we are going to make it by fiscal year 1995.

Mr. COX. I am very, very pleased to hear that. I am sure to the extent that you find it useful you can take liberties in saying that not only will Secretary Bentsen be upset if people don't get on board with this but so will Commerce, Consumer, and Monetary Affairs Subcommittee. Use us as a whipping boy. I speak without having consulted with the subcommittee chairman, but I think he would agree.

Mr. SPRATT. I have already warned them that we are going to raise it every time they come up here.

Mr. COX. One final topic, and that is the Modernization Act—the Mod Act. I agree with you about the ebullient prospects for the aftermath of the Customs Modernization Act. I know that in a recent article you pointed out the support that you have received from the Joint Industry Group and from over 100 companies who make up that group including AT&T, Federal Express, Sea-Land Service, IBM, Xerox, and so on. But recently, representatives of the transportation and express carrier industries have expressed concern that a provision of the Modernization Act is not being implemented or at least there is a delay in implementation and that is raising the administrative exemptions to the statutorily specified floor amounts.

I am told that the failure of the Customs Service to implement this provision of the Mod Act has already cost not only transportation and express carrier industries but also the Customs Service millions of dollars since the law was signed on December 8, 1993.

I wonder if I can ask you both about the delay in the implementation of what ought to be a simple change, statutorily specified floor amounts being raised; and, second, I would like to ask you about an interpretation that I understand Customs is now advancing which suggests that express carriers are limited to only one administrative exemption of \$200 whereas in the past the notion has been that under the statute the exemption applies to the customer who is the ultimate consignee rather than to the carrier. I wonder if you could respond to both.

Mr. WEISE. Yes, Congressman, and the two issues are very much linked. The reason that it has not been implemented sooner is because of the legal question with regard to the latter point that you just raised.

Clearly, I was very much involved in the development or at least the brokering of the various interests in my prior position as staff director of the Ways and Means Trade Subcommittee. I was very pleased when we were able to get this bill enacted into law in the past year, and I will tell you that from my perspective as the staff director of the Trade Subcommittee, I was aware that the courier industry was an industry that was a very strong proponent of this particular provision. As a matter of fact, in my own mind, I always associated them as the principal beneficiary of this provision, at least the one that was always most vocal in saying this is important to us.

So I was quite surprised when I was briefed by the attorneys in the Customs Service and they pointed out this legal problem that they saw with implementing it with regard to couriers. They did point out to me that the language in the statute as passed in the Customs Modernization Act clearly refers to a single importation by a single importer on a single day. There is a legal question as to whether a courier who makes entry on behalf of many, many consignees, as you know, would qualify for the benefit. I frankly chastised the people in the room when they told me this because of my long impression in my prior position that they were a group that was pushing for this. I wondered why wasn't this issue surfaced earlier in the discussions if there was a legal problem? We have been having meetings with the courier group to see if we can't find a way legally to deal with this issue, and that is the reason for the delay.

We have had several meetings. We are continuing to meet with the courier group. I am very concerned about the way this has unfolded. I think it is terribly unfortunate, and we are trying to resolve it as quickly as we can.

But that is the reason for the delay, is making sure that we have the provision properly interpreted under the law.

Mr. COX. I appreciate in particular your sharing your viewpoint from your earlier post. I would think that would be quite significant. The record, to the extent I have been able to determine it, also reveals that the administration supported the raised amounts, and I am troubled that the Customs Service, if lawyers there had contemplated that point, changing their interpretation of the law, didn't involve themselves in the legislative process so that this might have been avoided.

Mr. WEISE. They were very much involved in the legislative process, and that is the reason I was disappointed that this issue hadn't been brought to light sooner.

Mr. COX. All the more so then. They were there and didn't say anything, and now we hear about it.

I am concerned about the resources that will have to be devoted to the processing of shipments if this policy, this new policy, is implemented, and the costs of course will fall both on Customs and on the industry. I wonder if you could estimate the cost to Customs.

Mr. WEISE. Not off the top of my head.

Mr. BANKS. Most of that process, or at least a great deal of that process, is automated, so there isn't a great deal of cost. This is

more of a customer service issue that we are dealing with in terms of the courier's perspective.

The complicating factor in this as well, is that there are other parties in the private sector that have differing perspectives on this issue too. We really are trying to balance out these different perspectives, and they both have attorneys arguing on different sides of this issue.

Mr. COX. That, of course, produces the problem about which everyone is complaining, which is the delay in implementing what ought to be a simple provision. So I would hope, particularly given the perspective that Mr. Weise has shared with us, that we could find a way to implement what was clearly the legislative intent, and I yield back to the chairman.

I thank you.

Mr. SPRATT. Mr. Horn.

Mr. HORN. Thank you, Mr. Chairman.

Just rounding out one question so I understand it. It relates to the Chief Financial Officers Act. I take it you are going to work intensively on complying with the act during fiscal year 1995. I believe there was some letter that came from you that said some parts might still be going on in fiscal year 1997, and what I want to do is sort of go through a few items here just to get the time period. One is developing a methodology for measuring the collectibility of accounts receivable. Will that be done in fiscal year 1995?

Mr. DIAFORLI. That will be done for fiscal years—reports are being prepared currently now for fiscal year 1993. Customs met with the General Accounting Office in August 1993, developed a methodology to determine the validity and collectibility of all accounts receivable.

Mr. HORN. Very good.

How about developing the controls to ensure that all valid receivables are included in the accounts receivable? Is that automatic?

Mr. DIAFORLI. That is also of that term of validity.

Mr. HORN. All right, and developing the core financial systems used in preparing financial statements?

Mr. DIAFORLI. We implemented a core financial system. The accounting system was implemented in October 1992.

Mr. HORN. OK. Developing measures that ensure importers are paying tariffs required by law?

Mr. WEISE. That relates, sir, to the project that we talked about earlier, the selectivity redesign, and trying to make sure that we can—not for just five commodities but throughout the organization, so we are hoping that we can meet that target.

Mr. HORN. OK. Let me move to automation which that question sort of leads to. You are probably familiar with the article that appeared in the Washington Post January 1, 1994. It is by Michael White, Associated Press, dateline Los Angeles, talking about my two favorite harbors. "Weaknesses in the U.S. Customs Service cargo tracking system may have opened a door for smugglers of drugs and other contraband and cost taxpayers millions of tariff dollars according to sources and Customs records. Among the problems, false inspectors' names are showing up on cargo entry records, passing containers without inspection, and sales placed on containers bound for distant destinations are breached in transit,

allowing contraband to be removed or contents stolen between the dock and inspection points.”

It goes on to say the laxity is alarming because more than 90 percent of the cargo that enters the Los Angeles harbor is shipped from Asia, which is the primary source of heroin for the United States.

So far, do you have a reaction to that?

Mr. WEISE. Congressman, I was very disturbed and concerned when I read the same article. There were some inaccuracies in the article, but the general thrust of the article is that there are weaknesses in our system with regard to in-bond shipments. In-bond shipments are basically, as you know, shipments that arrive at the first port of entry and are allowed to be transported within the country and actually entry isn't made until they reach their ultimate destination. We need to do better in that whole area, and we have had numerous discussions.

Frankly, there are many who suggest within Customs that it would perhaps be best for the government to consider whether or not they should even continue to allow in-bond shipments. I don't think we can come up with a perfect system, but we are working on systematic improvements.

Second, with regard to the so-called fictitious employee, that was an error in the article. There is an inspector—not an inspector, excuse me—it was a contract employee by the name of Bluitt that actually was signing the records, and that was not a fictitious employee.

There were some allegations made of alleged integrity problems, and I can tell you that those integrity matters are being looked into.

Mr. HORN. OK. So there was only one case—and he does mention the Bluitt case—of an inspector that seemingly was nonexistent, is now existent.

Mr. WEISE. Has been, always was existent.

Mr. HORN. Is that true of every situation that we didn't have a problem with fraudulent use of an inspector's name or a made-up name that automatically cleared the documents?

Mr. WEISE. That is correct. We looked at every transaction and saw no indication of a false name being put into the system. Each individual that accesses that system has to have a security entry number or code, so we have substantiated that has not occurred.

Mr. HORN. Did you write a point-by-point response to this article?

Mr. WEISE. Not that I shared with the press. We did internally to make sure that each of the allegations was examined, but we felt it probably wouldn't get published anyway and did not feel it would be necessary or appropriate to send it off to the press.

Mr. HORN. Could we get a copy of that response and put it in the record with this article?

Mr. WEISE. Yes, we would be happy to do that.

Mr. HORN. If it is agreeable to the chairman.

Mr. SPRATT. Yes, we would like to have it.

[The information follows:]

Customs' Cargo Tracking Is Said to Be Lacking

Smugglers May Be Using U.S. Agency's Computer System to Help Import Drugs, Contraband

By Michael White
Associated Press

LOS ANGELES—Weaknesses in the U.S. Customs Service's cargo tracking system may have opened a door for smugglers of drugs and other contraband and cost taxpayers millions of tariff dollars, according to sources and Customs records.

Among the problems: False inspectors' names are showing up on cargo entry records, passing containers without inspections, and seals placed on containers bound for distant destinations are breached in transit, allowing contraband to be removed or contents stolen between the dock and inspection points.

The laxity is alarming because more than 90 percent of the cargo that enters Los Angeles harbor is shipped from Asia, which is a primary source of heroin for the United States.

Customs depends on a computer network that links its intelligence files with manifests for incoming cargo to help inspectors identify suspicious shipments. False information in either half of the system undermines its integrity.

While Customs records obtained by the Associated Press do not show conclusively that the tampering involved smuggled goods, they do raise the possibility that a computer system designed to halt contraband at the border has been converted into a tool for smugglers.

Federal authorities are investigating whether Customs records have been manipulated to avoid tariffs on cargo entering the Los Angeles-Long

Beach harbor complex, a source close to the investigation said.

Because Mexico has no major seaports on its Pacific Coast, many containers bound for Mexico come through Los Angeles-Long Beach and are transported overland. These "in-bond" cargo containers are not inspected or assessed duties until they reach their final destination.

Investigators are checking whether some containers were falsely passed through Los Angeles Customs as in-bond but then delivered records were signed with a false name, and the suspicion is that importers are paying kickbacks to inspectors, said the source, who requested anonymity.

The files indicate a separate but similar situation at the Port of Los Angeles. There, someone entered the name of a nonexistent inspector into a computer record while processing a legitimate shipment of Chinese rifle parts that had been flagged for possible tariff evasions.

The records also show that Customs never verified whether the shipments reached its proper destination. John Heinrich, director of the Los Angeles Customs district, said he was generally confident the agency's inspection system was effective but he did not rule out the existence of isolated problems.

The arrival of the rifle parts, for example, triggered a computer alert entered by an agent who suspected the importer intended to undervalue a future shipment. The notice was apparently overridden and the shipment later was cleared by an inspector who signed off as "Blunt," records show.

There is no inspector with that name in Los Angeles, according to Heinrich, who said he did not know why the name appeared in the computer records. He said he expects the matter to be investigated.

The Blunt name showed up on one other container in Los Angeles, records show. A Customs source, who also spoke on condition of anonymity, said other records had been signed off under names that do not correspond to inspectors who work at the harbor.

The in-bond containers, such as those at the center of the federal investigation, have presented a Customs problem for years. The agency has never been able to track all such containers to their final destinations, whether in Mexico or distant U.S. cities. Furthermore, because cargo volume has increased well beyond the computer system's ability to track it all, officials have routinely done monthly purges of "lost cargo" records, deleting hundreds of files at a time.

In fiscal 1993, the Los Angeles Customs district processed about 285,000 in-bond shipments. They were among 1.5 million containers that entered Long Beach and Los

Angeles harbors that year. Some contend the agency's problems will be magnified as the volume of cargo increases under the North American Free Trade Agreement.

Heinrich estimated that Customs each month purges the records of 200 to 400 in-bond containers it loses track of after arrival. A 1991 report by a Treasury Department investigator, however, said the monthly toll for Los Angeles runs into the thousands.

Through random checks of importers, Customs estimates that 97 percent of the unconfirmed shipments are delivered. But the in-bond containers remain a worry for federal officials, who believe smugglers use the containers to distribute Asian heroin around the United States. The Customs Service is installing a more sophisticated cargo handling system that should eliminate the need for purges.

But a better computer will not keep sealed containers safe in transit. Inspectors at the Mexico border find that seals on up to half of in-bond shipments arriving from Los Angeles have been broken, said a veteran inspector, who spoke on condition of anonymity.

Seals, which look like small locks,



Mike Homer left Customs after alleging the agency tampered with his reports.

are placed on containers to prevent cargo from being removed during transit. If there are official Customs inspections along the way, the seals are replaced.

On a recent visit to a Customs station at San Ysidro south of San Diego, a reporter watched a long line of container-laden trucks drive non-stop into an inspection yard and straight through a checkpoint into Mexico.

Sources in Customs said standard procedure calls for the trucks to be stopped and the seals and paperwork on the containers checked.

Gurdit Dhilon, assistant director of the San Diego Customs district,

said such swift border processing is acceptable under the agency's policy of selectively targeting cargo for inspection.

Mike Homer, a former San Diego district inspector, said the computer system lulls inspectors into relying on electronic alerts rather than taking the initiative to stop suspicious vehicles and containers.

"They say, 'We've got the best equipment, the best dog handlers, the best inspectors,'" said Mike Homer, a former inspector who left the agency after accusing superiors of tampering with reports identifying smugglers. "It's true, they do. They just don't use it."



DEPARTMENT OF THE TREASURY
U.S. CUSTOMS SERVICE
LOS ANGELES, CALIFORNIA

January 18, 1994

MAN-1-LA

Letters to the Editor
Washington Post
1150 15th Street, N.W.
Washington, D.C. 20071

Dear Editor:

Please permit me to correct several errors in a recent AP story that the Washington Post carried regarding Customs' in-bond cargo system. The in-bond system allows cargo entering the U.S. through one port to move to its destination port under secure circumstances where it is inspected and assessed for tariffs. I believe that these errors could have been prevented had the AP's reporter accepted my invitation for a live demonstration of the system.

Contrary to what the article said, there is a Customs employee in Los Angeles by the name of Bluitt. Ms. Bluitt is a contract employee who is authorized to input trade data into our automated system. Ms. Bluitt, whose name appears on all documents on which she enters data, has an assigned number and password which allows her access to the system. She is not a "fictitious" employee.

Secondly, there was, indeed, a shipment of Chinese rifle parts released in the Los Angeles District. Eight full container loads were unloaded and thoroughly searched. Proper invoices and ATF permits were present and the shipment was cleared by the Customs inspector who conducted the examination. Ms. Bluitt performed the clerical function of keying the basic entry information into the automated system.

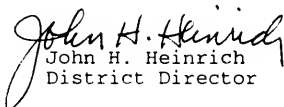
Third, the article incorrectly attributes to me as stating that 200 to 400 records are purged each month. The Los Angeles District processes about 24,000 in-bond transactions each month. On the average, about 200 of these are flagged by the system for further review, because those shipments were not accounted for. Approximately 97 percent of these 200 transactions involve clerical error and are readily resolved, while the remainder require a penalty action. However, these transactions are not purged from the system. Customs preserves the documentation.

I will not pretend that our in-bond system operates perfectly. I can assure you that Customs is taking steps to prevent those scenarios described in the AP report from becoming reality. The recent passage of legislation to modernize Customs commercial operations, will enable us to further automate and

enhance the in-bond cargo system.

In short, I am confident that Customs has adequate cargo processing systems in place that are undergoing continual improvement. Concerning future coverage of Customs by the AP, I again extend an invitation to observe our operations with the belief that the public will better be served by more accurate reporting.

Sincerely,


John H. Heinrich
District Director

Mr. HORN. Let me just pursue one other point which is quoting White. He says the agency has never been able to track all such containers to their final destinations whether in Mexico or distant U.S. cities. Furthermore, because cargo volume has increased well beyond the computer system's ability to track it all, officials have routinely done monthly purges of lost cargo records, deleting hundreds of files at a time. Any truth to that?

Mr. WEISE. No.

Mr. HORN. And that is in your response, I take it?

Mr. WEISE. Yes, and I have just been informed that we did send a letter to the press, and, as we expected, it didn't get published.

Mr. HORN. OK. I have been through those, too. I found 26 errors in one story when I was a university president. They did remove the reporter from the beat, however, when 26 occurred.

Then it says, "On a recent trip to a Customs station at San Ysidro south of San Diego, a reporter watched a long line of container-laden trucks driven nonstop into an inspection yard and straight through a check point into Mexico. Sources in Customs said standard procedure calls for the trucks to be stopped and the seals and paperwork on the containers checked."

Mr. Dillon is quoted, Assistant Director of the San Diego Customs district. He said such swift border processing is acceptable under the agency's policy of selectively targeting cargo for inspection, and they quote Mike Horner, a former San Diego district inspector, who said that computer inspection lulls inspectors into relying on electronic alerts rather than taking the initiative to stop suspicious vehicles and containers.

What do you feel about that?

Mr. WEISE. I think that will be part of our response. You know, we do the best we can. We obviously are very much aware of our responsibility of collecting tariffs on imports. On exports, there is not generally a tariff collection responsibility. Many of those trucks are not in-bond shipments. It is not a line—which may be given the impression—a line of trucks which have been entering one port and exiting another. Many of these trucks originated in Texas and other areas domestically.

So we feel that we are responsively acting in this area, and we will, in response to you for the record, address that point as well.

Mr. HORN. OK.

[The information follows:]

On the land borders, cargo may be entered via three types of release systems: line release, border cargo selectivity or BREL. When an importer applies for line release, research is done on the importer and the merchandise prior to granting line release. Such entries are not processed through cargo selectivity.

The primary goal of cargo selectivity is to facilitate low risk shipments for clearance and target high-risk and trade sensitive imports for scrutiny. National cargo selectivity criteria is input by the national OAS office based on seizures and referrals from local OAS analysts. Local OAS analysts may also create local cargo selectivity criteria. Such local criteria may be based on referrals from inspectors, import specialists, agents or may be based on seizure or discrepancy activity at the port. Prior to creating criteria, the OAS analyst should assess the impact of the criteria. Local or national narcotic criteria may also be created based on intelligence from EPIC.

Cargo selectivity processing creates a history of examinations and results of examination. This history may be queried in a variety of ways and is invaluable for enforcement concerns. It should also be used in assessing the impact of creating criteria as well as evaluating criteria. It is important to note that inspectors may target any shipment for a more intensive examination.

Commercial conveyances are usually targeted for inspection at the point of first arrival (primary booth) by the Customs inspector. Inspectors usually conduct a visual inspection of the truck and trailer to identify any deviations from the norm. This initial inspection may also involve using K-9 teams and high tech equipment, i.e. busters, laser range finders. The inspectors also utilize behavioral analysis techniques on the drivers of the conveyances for determining whether a more intensive examination is required. This involves questioning of driver on different issues related to the importation of the cargo or container, i.e. ownership of conveyance, loading and delivery information.

Once this initial screening is performed a more intense examination may be ordered by the primary inspector. The inspection will include the examination of the tractor/cab interior, engine compartment, etc. If available a complete search by the K-9 unit will be conducted. All available tools and technology, including measuring devices are utilized during these intensive inspections.

While conveyances are waiting for Customs clearance, inspectors and K-9 teams conduct roving activities within the commercial facilities wherein they may identify conveyances for intensive examinations.

Mr. HORN. Well the final paragraph, just to round this out—and the chairman might want to look at a response to this—“They say we have got the best equipment, the best dog handlers, the best inspectors,” said Mike Horner a former inspector who left the agency after accusing superiors of tampering with reporting identifying suspected smugglers. “It is true, they do”—that being Customs—“they just don’t use it.”

Is there a problem where various superiors were tampering with reports identifying suspected smugglers?

Mr. WEISE. Absolutely not.

Mr. HORN. So that is a false statement.

Mr. WEISE. That is a false statement.

Mr. HORN. Mr. Chairman, that is all I have.

Mr. SPRATT. I have just two general questions. Mr. Weise, you told the House Appropriations Committee last week that it is really going to be a great temptation for transshippers and others who want to get around our Customs to come through Mexico. Consequently, the 50 additional personnel that have been requested will definitely be needed in textiles and apparel, particularly in that sector where transshipment and evasion and circumvention is worse.

How are you standing right now in your cooperative efforts with your counterparts in Mexico to police this problem?

Mr. WEISE. I would say we have excellent relations with our counterparts in Mexico. As a matter of fact, between the time that I testified before the House Appropriations Committee and today, I have had a meeting with my counterparts from Mexico in Washington. We pointed out at that time that in a recent visit that I made to the Texas border, McAllen, we observed a long line of trucks waiting to go into Mexico, and we were able to get that problem resolved rather quickly.

As a matter of fact, I don’t want to take credit for resolving it because they had informed us that the problem was brought to their attention earlier and they had resolved it even before they arrived in Washington.

There are problems that exist that we need to resolve, but there is clearly a commitment on the part of the leaders in the Mexican Customs Service, and Mr. Gil Dias, who is the Deputy Secretary of Treasury who oversees the Customs Service, a clear commitment to try to work with us. There are problems there that need to be addressed, but I think there is a strong desire and willingness to try to resolve those problems.

Mr. SPRATT. There is a lot of talk now of CBI parity, and I suppose eventually accession of other countries to NAFTA is in the cards. If we had CBI parity following on the heels of NAFTA, would you need additional personnel to police the problems in the Caribbean and Central America?

Mr. WEISE. I wouldn’t want to speculate on that right now. Obviously, we need to examine that carefully. But remember, both in the case of Mexico and in the case of the Caribbean, most of those products are already entering the United States duty free. In the case of Mexico, we had the Generalized System of Preferences; in the case of the Caribbean, we had the Caribbean Basin Initiative; and I would venture to say—and John, maybe correct me if I am

wrong on this—but I would say 70 percent or more of the trade that comes into the United States from those countries is already duty free.

Now clearly textiles is an area where they don't come in duty free and there would be a need to ensure that those provisions are adequately enforced. We have not done any analysis of what the additional demands might be when and if those countries are added.

But I will point out that we are very fortunate that Deputy Assistant Secretary Simpson, who is here at the table, was actually at the negotiating table in the NAFTA. For the first time in any trade agreement that I am aware of, we were able to get provisions in the agreement that would enhance our ability to enforce the agreement. In particular, I refer to the commitment by the signatories—which I presume would apply to any additional signatories—that we have access to go into their plants with our people.

So there are some excellent provisions in there, thanks to the fact that John was so directly involved in this. That will help us do a more effective enforcement job than with other countries where we don't have a similar agreement.

Mr. SPRATT. Well, that would be a problem. As I see it, with CBI parity you have got X number of additional jurisdictions, each of which poses its own separate problems. Some of those countries are reliable and have, you know, governments operating on a high plane, and others leave something to be desired. And so it would seem to me it would vastly complicate your enforcement problems, but I won't ask you to speculate further on it. I will leave my opinion in the record.

Let me just end on this question which could complicate enforcement problems, and that is something called outbound processing and definition of country of origin. Treasury on January 3, Mr. Simpson, Mr. Noble, issued some proposed regulations published in the Federal Register. We didn't know about them until we were pressing the USTR on this issue at a recent meeting of the Textile Caucus. It is not clear whether or not it was originally your intent, but a lot of people, having read these and waded through them, found it possible that what you have done here is define "country of origin" to where goods or garments are cut, and that alone would define the country of origin, whereas now normally you have to do more than cut, you have to substantially transform the textile fabric in order to stamp your country of origin on it. What is your intent in the issuance of these regulations?

Mr. SIMPSON. Mr. Chairman, the regulations are not substantively different from the regulations we published in 1984. The effect of cutting—and there are several different kinds of cutting that can be performed—has the same legal significance in the new proposal as it did in the regulations we have had in force for the last 10 years.

Ten years ago when we published our original proposal, there was a debate within the industry about how the rules should be constructed. There were some people who thought cutting should be origin significant and some people who believed it should not. The majority opinion then came down in favor of certain kinds of cutting conferring a new origin. I think what has happened now is

that the industry is looking at the new rules, which reproduced the old ones exactly; they are looking at the new rules as an opportunity to reconsider that decision that was made back in 1984.

At 1:30 today, I am meeting with the American Apparel Manufacturers. At 3:30, I am meeting with the Northern Textile Association; and a week from today, Jennifer Hillman and I are going to try to get them all in the room to get an agreement on this.

But what we have in the Federal Register now reproduces as exactly as possible what we have done for the last 10 years.

Mr. SPRATT. Well, if you are meeting with them at 1:30, I had better let you go so you can get a bite of lunch and be prepared for that meeting.

We do have some questions for the record. We were going to take up the issue of counterfeiting, but I think it is better that we possibly come back and devote either a hearing or possibly a briefing. It might be a better forum to have a briefing because you might want to have something in closed session about that.

Mr. NOBLE. We do have members of the Secret Service here in anticipation you wanted some information on counterfeiting, but we would prefer a briefing.

Mr. SPRATT. OK. Let's say we will do that some time in the near future then, and we will have a briefing so we can close the doors and have a fuller exchange.

Mr. NOBLE. Mr. Chairman, yes, sir.

Mr. SPRATT. Thank you all for coming. We very much appreciate your testimony, your forthright responses to our questions, and your continuing cooperation.

Mr. NOBLE. Thank you, sir.

Mr. WEISE. Thank you, Mr. Chairman.

[Whereupon, at 12:45 p.m., the subcommittee adjourned, to reconvene subject to the call of the Chair.]

APPENDIX

QUESTIONS TO AND RESPONSES FROM RONALD K. NOBLE, ASSISTANT SECRETARY OF TREASURY FOR ENFORCEMENT, AND GEORGE J. WEISE, COMMISSIONER, U.S. CUSTOMS SERVICE

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ONE HUNDRED THIRD CONGRESS

Congress of the United States House of Representatives

COMMITTEE ON GOVERNMENT OPERATIONS

2157 RAYBURN HOUSE OFFICE BUILDING

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Subcommittee on Commerce, Consumer, and Monetary Affairs

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March 25, 1994

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The Honorable Ronald K. Noble
Assistant Secretary of Treasury
for Enforcement
Room 4330
U.S. Department of Treasury
1500 Pennsylvania Avenue, NW
Washington, D.C. 20220

Dear Mr. Noble:

Thank you very much for your excellent testimony before our subcommittee. Your testimony was both thoughtful and informative. I was particularly pleased by your reaffirmation of the Administration's commitment to the extra \$18 million to fight textile transshipment. Those of us who received the November 16 letter took President Clinton's promise very seriously and we expect to see it carried out. I believe that you are committed to honoring the President's pledge and I look forward to working with you to carry out the commitment. I should add that I believe it is important for these resources to be available this year, not in 1995. NAFTA is already in place and textile imports are increasing.

At the hearing, we discussed my commitment to work for extra money for Customs enforcement. I am convinced that the dollars the federal government spends on Customs enforcement pay dividends worth many times the investment. For example, extra enforcement personnel would help catch importers who are deliberately undervaluing imports in order to evade tariff payments. OMB appears willing to accept this argument for IRS enforcement spending. In fact, the President's FY 1995 budget suggested the possibility of providing an extra \$2 billion in excess of the discretionary cap to IRS for tax enforcement since Treasury will recapture a far greater amount in additional revenue. I would like them to accept this approach for Customs enforcement and I am willing to work with OMB to convince them to adopt this approach.

I am also interested in the problem of entitlement fraud which we discussed after the hearing. I would like to see any additional information you may have on that issue since it is a matter I am interested in pursuing.

The following are some additional questions which we did not get the chance to discuss in full. We will make your response part of the official record of the hearing.

I. COMMERCIAL AND TEXTILE ENFORCEMENT

1. The President's budget requests a \$94 million increase in the Merchandise Processing Fee (MPF) to help pay for the textile initiative. Of the \$94 million, \$18 million will go for the textile initiative and \$26 million will pay for the Automated Commercial System (ACS). The remaining \$50 million will fund Customs commercial programs. The link between the MPF and the textile initiative came as a complete surprise to me. Why did the Administration link the MPF to the textile initiative? Will the Administration object if Congress funds the initiative without increasing the MPF?

2. Despite President Clinton's latest textile enforcement initiative, I am concerned that we still don't have adequate resources to crack down on transshipment. In 1974, the total value of textile and apparel imports was \$4.2 billion. In 1984, imports were \$19.3 billion. In 1993, the value of imports grew to \$42 billion. Despite this exponential growth in textile imports, the resources dedicated to textile enforcement have not kept pace. Unfortunately, Customs staff could only provide data on Customs resources earmarked for textile enforcement in 1993 and 1994, not over two decades. But I understand that in the 1970s, Customs inspected roughly 10% of the cargo entering the United States. Now I am told we inspect no more than 1% of the cargo. Is that true? Do you agree that Customs resources for textile enforcement over the last 20 years have not kept pace with the growth in textile imports?

3. Do you believe that existing civil penalties for transshipment provide adequate deterrence? Under current law, if Customs finds that an importer was negligent (as opposed to committing fraud) when importing transshipped products, the most Customs can penalize him is for only 20% of the value of the product. In other words, if an importer negligently brings transshipped Chinese shirts worth \$100,000 into the country and Customs finds he was negligent, the most Customs can fine him is \$20,000. Given the high mark-up for products once retailers sell them, a 20% fine seems like a tap on the wrists. Do you agree? Would Customs support increased civil and criminal penalties for transshippers? Isn't it true that even when Customs finds transshipped products, the importer has the option of selling the goods abroad and may not even lose title to the goods?

4. How much do you believe the Treasury loses annually as a result of importers deliberately undervaluing textile products to avoid paying higher tariffs? What is the loss due to over-shipping and misclassifying products.

5. On January 3, 1994, the Treasury Department published in the Federal Register draft regulations modifying existing rules of origin for textiles and apparel. While this was not Treasury's intent, some textile industry officials have expressed concern that these changes could make it easier for countries like China to evade U.S. quotas by engaging in "outward processing". I am very concerned about outward processing because it represents a legal way for importers to evade quotas.

The Treasury Department, especially Deputy Assistant Treasury Secretary John Simpson, has been extremely cooperative in working to address industry concerns. Do you agree that the new draft rules would make "cutting" fabric into garment parts determinative of origin for garments subsequently assembled from those parts? If so, would this rule create numerous opportunities to establish cutting operations which would be difficult to track under the existing quota program?

6. Do you agree that during the 1980s, Customs put a much bigger emphasis on traditional law enforcement efforts like drug interdiction at the expense of trade enforcement? What impact do you see that having on Customs's operation today?

7. I am concerned that the total Customs Service budget (including commercial and traditional law enforcement programs) in general does not receive the resources it needs for commercial enforcement. In constant dollars, Customs total budget has remained the same since 1987. In 1994 dollars, Customs budget for 1987 and 1994 was \$1.6 billion. Meanwhile, the total value of goods imported into the U.S. in that period increased by 20% to \$580.5 billion. How can Customs be expected to carry out its increasing workload while its budget stays the same?

II. LAW ENFORCEMENT AND EXPORT/IMPORT CONTROLS

1. The March 9 Washington Post reported that Customs and BATF discovered tens of thousands of "illegal rifles, including some classified as machine guns and others equipped to mount grenade launchers" that were recently imported from China in violation of federal gun laws. According to the article, BATF has so far discovered 3,000 to 4,000. Many of these weapons have already been sold in the United States and BATF is asking purchasers to return them. I have several questions. First, how did these weapons ever get by Customs officers? Is it too late to get the weapons back from the purchasers? What was the role of the Chinese government in the importation? Was the Chinese government aware of this illegal activity? Are we facing a similar problem with weapons coming from the former Soviet Union and Eastern European countries which have huge arsenals of surplus weapons?

2. With last year's World Trade Center bombing and last week's shooting in New York of several orthodox Jews, some observers believe the potential for terrorism in the United States is increasing. Do you agree? If so, what steps are we taking to prevent it?

3. Certain nations like Iraq, North Korea and Iran are reportedly making vigorous efforts to purchase military equipment from Western countries. We learned after the Gulf War that some American equipment, which was illegally sold to Iraq before the war, was used in Iraq's military machine. What steps is Treasury taking, in conjunction with Commerce and Customs, to prevent the illegal export of either military or dual use products to outlaw nations?

4. An article in the March 18, 1994 Wall Street Journal, described a variety of problems encountered by Operation Exodus. According to the article, Operation Exodus "has lately gotten itself, and the U.S. into a peck of trouble". Do you believe the claims made in the article are accurate? If not, why not? If so, has Customs taken any actions to ensure these mistakes won't be repeated?

III. COUNTERFEIT AMERICAN CURRENCY

The following are a few questions regarding counterfeit American currency. Because I realize the sensitivity of some of these issues, especially when included in a public report, the questions are limited in scope. I plan on holding a closed briefing with the Secret Service to discuss these issues in greater detail.

1. According to an article entitled, "Terror Dollars: Counterfeiters, Cartels and Other Emerging Threats to America's Currency", in the March 6, 1994 Washington Post, the "U.S. dollar has become the target of choice of an increasingly dangerous collection of drug runners, terrorists and rogue states bent on destabilizing the global political and financial order, or enriching themselves." For example, the article describes a group of high skilled counterfeiters in Lebanon, supported by Syrians and Iranians, who have turned out \$1 billion in nearly perfect \$100 bills. Can you comment?

2. Our sense is that the domestic supply of \$50 and \$100 Federal Reserve Notes is basically secure due to the abilities of the Fed's scanners. However, there are probably more of these counterfeit notes in international circulation than are resident here. I would like to know what the policy of the Administration is regarding the off-shore notes. Put otherwise, can you tell me something about the Secret Service's efforts overseas?

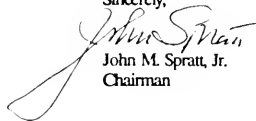
3. The National Research Center recently issued a report entitled Counterfeit Feature for the Next-Generation Currency Design. It is a very thorough document which takes us back to the first bills produced in 1862 for the Comptroller of the Currency and brings us up to the present and, indeed, beyond. I would like your assessment of this report and where it stands in terms of implementation.

4. Press accounts suggest that terrorists, under the sponsorship of various governments in the Middle East, are often masterminding the distribution of high quality counterfeit notes. However, the real long term problem may be the growing ability of anyone to use reproduction technology to duplicate our currency. Can you comment? Do you believe Congressional legislation is necessary to resolve this problem or can it be solved administratively?

One of my important concerns with the Customs Service is to see the full implementation of the Chief Financial Officers Act. Although I welcome Customs' commitment to its implementation, I am troubled that Customs still does not know when it will be in full compliance. The House Government Operations Committee played a critical role in the enactment of this bill and we consider it an integral part of President Clinton's goal to reinvent government. For that reason, I would appreciate any support you could provide Customs in its efforts to comply.

Again, thank you for appearing before our subcommittee. I look forward to working closely with you and your staff and I hope you will feel free to call on me if I can be of assistance to you.

Sincerely,

A handwritten signature in cursive script, reading "John M. Spratt, Jr.", with a large, sweeping loop at the end of the signature.

John M. Spratt, Jr.
Chairman



DEPARTMENT OF THE TREASURY
WASHINGTON

APR 13 1994

ASSISTANT SECRETARY

APR 21 1994

The Honorable John M. Spratt, Jr.
Chairman, Subcommittee on Commerce,
Consumer, and Monetary Affairs
Committee on Government Operations
House of Representatives
Washington, D.C. 20515-6143

COMMERCE, CONSUMER AND
MONETARY AFFAIRS SUBCOMMITTEE

Dear Mr. Chairman:

Thank you for your letter of March 25 regarding the hearing held by your subcommittee on Customs commercial enforcement and enforcement of our bilateral textile agreements in particular.

We are committed to a strong textile enforcement program at Customs, and to carrying out the specific undertakings promised by the President in his November 16 letter to you.

In order to give complete answers to the additional questions you included in your letter I would like to provide you with a further response before the end of the month.

Thanks again for your timely hearing, and for giving us an opportunity to discuss our textile enforcement program.

Sincerely,

Ronald K. Noble
Assistant Secretary
(Enforcement)



DEPARTMENT OF THE TREASURY
WASHINGTON

ASSISTANT SECRETARY

RECEIVED

MAY 10 1994

COMMERCE CONSUMER AND
MONETARY AFFAIRS SUBCOMMITTEE

The Honorable John M. Spratt, Jr.
Chairman, Subcommittee on Commerce,
Consumer, and Monetary Affairs
Committee on Government Operations
House of Representatives
Washington, D.C. 20515-6143

Dear Mr. Chairman:

Your March 25 letter to me forwarded additional questions about various matters that were the subject of the March 10 hearing at which I appeared.

Enclosed are answers to those questions. I hope that you find the information useful.

Secretary Bentsen and I share your interest in seeing implementation of the Chief Financial Officers Act at Customs. Although there are some difficult technical problems to be overcome, I know that Commissioner George Weise is committed to full implementation at the earliest possible date.

Thanks again for giving us an opportunity to discuss our commercial enforcement programs.

Sincerely,

 A handwritten signature in black ink, appearing to read "Ronald K. Noble".

Ronald K. Noble
Assistant Secretary
(Enforcement)

Enclosure

QUESTIONS SUBMITTED FOR THE RECORD BY THE CHAIRMAN

I. COMMERCIAL AND TEXTILE ENFORCEMENT

QUESTION 1: The President's Budget requests a \$94 million increase in the Merchandise Processing Fee (MPF) to help pay for the Automated Commercial System (ACS). Of the \$94 million, \$18 million will go for the textile initiative and \$26 million will pay for the Automated Commercial System (ACS). The remaining \$50 million will fund Customs commercial programs. The link between the MPF and the textile initiative came as a complete surprise to me. Why did the Administration link the MPF to the textile initiative? Will the Administration object if Congress funds the initiative without increasing the MPF?

ANSWER: The Customs Service will carry out the President's commitment with respect to textile enforcement whether or not an increase in the MPF is approved.

MPF revenues are used by Customs to offset the costs of commercial operations, such as the NAFTA/textile enforcement initiative. An adjustment to the fee is needed to cover the cost of this initiative. However, the MPF cannot be increased without legislation because the current fee amounts have reached the maximums allowed by law. Therefore, the budget request proposes the legislative change to provide the Secretary with authority to raise the fee amounts to cover the increased Customs commercial costs and increase the cap.

If Congress funds the initiative without increasing the MPF, the Customs Service will be collecting from the MPF less than the costs of its commercial activities. Funding for the commercial enforcement initiative would therefore have to come from another source, or other non-commercial enforcement programs would have to be reduced, as determined by the Congress.

QUESTION 2: Despite President Clinton's latest textile enforcement initiative, I am concerned that we still don't have adequate resources to crack down on transshipment. In 1974, the total value of textile and apparel imports was \$4.2 billion. In 1984, imports were \$19.3 billion. In 1993, the value of imports grew to \$42 billion. Despite this exponential growth in textile imports, the resources dedicated to textile enforcement have not kept pace. Unfortunately, Customs staff could only provide data on Customs resources earmarked for textile enforcement in 1993 and 1994, not over two decades. But I understand that in the 1970's, Customs inspected roughly 10 percent of the cargo entering the United States. Now I am told we inspect no more than one percent of the cargo. Is that true? Do you agree that Customs resources for textile enforcement over the last 20 years have not kept pace with the growth in textile imports?

ANSWER: In general, Customs resources have not kept pace with the growth in all imports, including textiles. For example, the number of import specialists has remained basically unchanged despite the growth in total imports. Customs has responded by establishing methods to target more effectively high-risk shipments. Because textile shipments are generally considered high risk, the percentage of textile entries closely reviewed has not significantly decreased. The rate of intensive examinations is substantially higher than one percent, and is particularly high for shipments from countries or exporters that are viewed as being high risk.

QUESTION 3: Do you believe that the existing civil penalties for transshipment provide adequate deterrence? Under current law, if Customs finds that an importer was negligent (as opposed to committing fraud) when importing transshipped products, the most Customs can penalize him is for only 20 percent of the value of the product. In other words, if an importer negligently brings transshipped Chinese shirts worth \$100,000 into the country and Customs finds he was negligent, the most Customs can fine him is \$20,000. Given the high mark-up for products once retailers sell them, a 20 percent fine seems like a tap on the wrists. Do you agree? Would Customs support increased civil and criminal penalties for transshippers? Isn't it true that even when Customs finds transshipped products, the importer has the option of selling the goods abroad and may not even lose title to the goods?

ANSWER: Customs believes that its criminal and civil penalties are adequate deterrents in the area of violations resulting from transshipment. New legislation may be needed to enhance Customs seizure authority involving importation of violative articles which have been the subject of illegal transshipment. Customs will be pleased to work with the Committee on this issue.

With respect to the sufficiency of Customs negligence penalties, Customs is satisfied that such penalties are more than a tap on the wrist, and are adequate and appropriate in cases where the violator merely fails to exercise the degree of care expected from any commercial party under similar circumstances. More serious or repetitive violations will, of course, be treated more severely under the increased penalties for gross negligence or fraud--e.g., up to the domestic value of the goods in cases of fraud.

If Customs determines that imported goods bear a false designation of country of origin (which is the typical transshipment scenario), and Customs seizes the offending goods, Customs may release the goods for export under Customs supervision provided that the false markings are removed or obliterated. If the articles are prohibited or pose a danger to public health or safety export would ordinarily be disallowed.

It should be noted that release for export occurs with respect to seizures, and would not ordinarily be relevant in cases of civil penalty assessment inasmuch as Customs does not take possession of the articles in such cases. Also, in seizure cases, where release by Customs is authorized, it is likely that the importing party has retained title to the goods.

QUESTION 4: How much do you believe the Treasury loses annually as a result of importers deliberately undervaluing textile products to avoid paying higher tariffs? What is the loss due to overshipping and misclassifying products?

ANSWER: In order to provide valid estimates of revenue loss and general compliance, Customs began testing a new compliance measurement methodology in FY 1993. Testing will be completed in FY 1994 and training will be provided to all personnel. In FY 1995 Customs expects to be able to provide improved national measures of commercial compliance across industry lines.

QUESTION 5: On January 3, 1994, the Treasury Department published in the Federal Register draft regulations modifying existing rules of origin for textiles and apparel. While it was not Treasury's intent, some textile industry officials have expressed concern that these changes could make it easier for countries like China to evade U.S. quotas by engaging in "outward processing". I am very concerned about outward processing because it represents a legal way for importers to evade quotas.

The Treasury Department, especially Deputy Assistant Secretary John Simpson, has been extremely cooperative in working to address industry concerns. Do you agree that the new rules would make "cutting" fabric into garment parts determinative of origin for garments subsequently assembled from those parts? If so, would this rule create numerous opportunities to establish cutting operations which would be difficult to track under the existing quota programs?

ANSWER: The proposed rules published in the Federal Register of January 3 are intended to reproduce as accurately as possible the narrative rules, contained in section 12.130 et seq. of the Customs Regulations, that were published in 1984. With respect to cutting, those rules and the current proposal make the same provisions.

On March 17 Deputy Assistant Secretary Simpson and U.S. Chief Textile Negotiator Jennifer Hillman met with a broad group of representatives of the textile and apparel industries to discuss the current and proposed rules, and how changes to those rules with respect to cutting might effect outward processing. Although there was not agreement at the meeting, industry representatives planned to continue discussions toward development of a consensus on the cutting issue. Industry

members have until July 3 to file comments on the proposed rules.

QUESTION 6: Do you agree that during the 1980's, Customs put a much bigger emphasis on traditional law enforcement efforts like drug interdiction at the expense of trade enforcement? What impact do you see that having on Customs' operations today?

ANSWER: U.S. Customs' responsibilities are unique, in that we are tasked with enforcing at the border hundreds of laws on behalf of many other government agencies. I believe that the U.S. Customs Service maintained an effective trade enforcement program during the 1980's that was responsive to the demands of international trade and the level of threat that existed at that time.

Over recent years Customs has been confronted with a substantial increase in commercial traffic, an increased demand from the importing community for prompt clearance of legitimate goods, and new threats to U.S. industry created by the development of major export economies in countries that are not GATT members and whose systems of trade and intellectual property laws are not well developed. As a result, Customs had to rethink and focus its trade enforcement efforts. In that regard, Customs implemented several new trade enforcement initiatives to increase its effectiveness in enforcing U.S. trade laws.

These programs include:

- o Implementation of a comprehensive trade enforcement strategy that is responsive to changing international trade issues and identifies trade enforcement priority areas.
2. Focus of fraud investigations on unlawful trade practices that affect the revenue, health, safety, environment, and economy of the U.S.
3. Implementation of new tactics to fraud enforcement, i.e., jump teams, advanced textile training programs for special agents and import specialists, and a comprehensive training course in Customs criminal fraud for Assistant U.S. Attorneys.

QUESTION 7: I am concerned that the total Customs Service budget (including commercial and traditional law enforcement programs) in general does not provide the resources needed for commercial enforcement. In constant dollars, Customs total budget has remained the same since 1987. In 1994 dollars, Customs budget for 1987 and 1994 was \$1.6 billion. Meanwhile, the total value of goods imported into the United States in that period increased by 20 percent to \$580.5 billion. How can Customs be expected to carry out its increasing workload while its budget stays the same?

ANSWER: Beginning over ten years ago the Customs Service began to change its methods of doing business to ensure that it could remain an effective enforcement agency notwithstanding an increasing workload and static resource levels. One of the most important changes was development of the Automated Commercial System (ACS), to allow for more rapid transmission and analysis of information. Over the years Customs has endeavored to upgrade its automated capabilities to keep pace with the increase in workload. The FY 1995 budget submission includes an initiative to develop a modernized successor to ACS to enable Customs to maintain its commercial enforcement effectiveness into the next decade.

II. LAW ENFORCEMENT AND EXPORT/IMPORT CONTROLS

QUESTION 1: The March 9 Washington Post reported that Customs and the Bureau of Alcohol, Tobacco, and Firearms (ATF) discovered tens of thousands of "illegal rifles, including some classified as machine guns and others equipped to mount grenade launchers" that were recently imported from China in violation of Federal gun laws. According to the article, ATF has so far discovered 3,000 to 4,000. Many of these weapons have already been sold in the United States and ATF is asking purchasers to return them. I have several questions. First, how did these weapons ever get by Customs officers?

ANSWER 1a: Customs does not examine every cargo shipment entering the United States. In the case of weapons importations, Customs generally ensures that the required documentation is present. Unless we have prior knowledge of possible irregularities, the shipments are cleared on the basis of their documentary description if the documents are in order. The shipments may also be randomly selected for examination.

The automatic weapons from China noted in your question contain one minor difference from the legal semi-automatic weapons. Without prior information, only an inspector with special expertise could have detected the discrepancy. Once Customs was notified of a problem with the Chinese weapons, Customs staff met with ATF and obtained drawings of the legal and illegal weapons and the names of the manufacturers of the weapons. This information was immediately added to the Customs database to target future importations of weapons from the identified countries and manufacturers. Customs also added to its lookout system "images" of the targeted weapons in our system that graphically indicate the difference between the legal and illegal rifles. In addition, instructional videos for Customs inspectors were obtained from ATF and the FBI.

QUESTION 1b: Is it too late to get the weapons back from the purchasers?

ANSWER: The information Customs has is not specific enough to determine particular entries that contained the illegal weapons. There have been a number of shipments by different importers. Not all of the shipments contained the automatic weapons.

QUESTION 1c: What was the role of the Chinese government in the importation?

ANSWER: Customs is currently conducting an investigation. To date, there is no indication of complicity by any Chinese government officials.

QUESTION 1d: Was the Chinese government aware of this illegal activity?

ANSWER: There is no evidence that the Chinese government was aware of this activity.

QUESTION 1e: Are we facing a similar problem with weapons coming from the former Soviet Union and Eastern European countries which have huge arsenals of surplus weapons?

ANSWER: The potential for attempted illegal importations always exists. However, at this time there is no evidence that illegal weapons are entering the United States from the former Soviet Union and Eastern European countries.

QUESTION 2: With last year's World Trade Center bombing and last week's shooting in New York of several orthodox Jews, some observers believe that the potential for terrorism in the United States is increasing. Do you agree? If so, what steps are we taking to prevent it?

ANSWER: We have been fortunate in this country to have been exposed to a limited amount of terrorist activity, but the threat of it always exists. The ready availability of explosives and firearms is a significant element of the threat.

Treasury does not have specific authority to investigate terrorist groups; the FBI has the lead role in dealing with terrorism. But Treasury enforcement bureaus also have significant roles. Through the Bureau of Alcohol, Tobacco and Firearms we have jurisdiction to investigate crimes involving use of explosives and illegal firearms. ATF is involved in explosives tracing; through the National Tracing Center it provides round-the-clock firearms tracing to authorized law enforcement agencies around the world; and through the International Explosives Incidents System it provides a

computerized repository for historical and technical information to aid in monitoring and investigating explosives incidents. In addition, ATF trains explosives-detecting dogs for use by the state department overseas and participates in an ad hoc committee of the International Civil Aviation Organization, which is exploring ways to facilitate the detection of explosives in baggage and cargo.

Finally, ATF is engaged in several research projects that will make it possible to identify and trace firearms used in connection with terrorist activities and other crimes.

Beyond ATF's activities, the Secret Service also works closely with the FBI, the intelligence agencies, and the State Department to develop a better understanding of terrorists and terrorist organization, and to develop counter terrorism strategies.

QUESTION 3: Certain nations like Iraq, North Korea and Iran are reportedly making vigorous efforts to purchase military equipment from Western countries. We learned after the Gulf War that some American equipment, which was illegally sold to Iraq before the war, was used in Iraq's military machine. What steps is Treasury taking, in conjunction with Commerce and Customs, to prevent the illegal export of either military or dual use products to outlaw nations?

ANSWER: The Customs Service enforces U.S. export laws employing all conventional investigative tools, including but not limited to outbound inspections and undercover investigations to discover efforts to acquire U.S. products that have military applications. Customs devoted an average of 270 agent staff years over the last several years to export enforcement. Customs secured an average of 180 indictments each year during these years. These indictments, owing in part to our outstanding working relationship with the Departments of Defense, State, and Justice, as well as the intelligence community, led to the successful prosecution of individuals and organizations attempting to export: beryllium (used in the manufacture of weapons grade uranium) to Pakistan; carbon-carbon missile products to Egypt; mustard gas chemical precursors to Iran; gyroscopes used in missiles to South Africa; Contam computer software used in missile research and development to South Africa; and missile warhead detonation capacitors to Iraq.

Customs has made many seizures including significant proliferation components such as, in June 1990, a skull furnace capable of casting highly enriched uranium for nuclear bomb cores as well as melting titanium for fabricating ballistic missile components destined for Iraq.

In addition, Customs provides training to other U.S. agencies involved in non-proliferation control, and to foreign law

enforcement officials, including foreign Customs Services, especially in Eastern European countries and in the former Soviet Union.

Customs is actively engaged in the acquisition and the exchange of both strategic and tactical intelligence concerning non-proliferation issues. Customs participates in all of the policy and working groups established by the CIA's Non-Proliferation Center (NPC). Customs representatives sit on the Proliferation Interdiction Policy Board as well as actively participating in various technology monitoring groups.

Customs entered into a Memorandum of Understanding in September 1993 with the Department of Commerce on investigative cooperation and information sharing. This agreement provides for, among other things, increased communication regarding enforcement of the Export Administration Act (EAA) pertaining to dual use exports. In addition, Customs continues to enforce the export licensing requirements of the Department of State for defense articles, and sanction enforcement for the Treasury Department's Office of Foreign Assets Control. Customs is also specifically targeting potential unlawful exports of U.S. material destined to countries other than Iraq, such as Iran and North Korea, as well as other proliferating countries and countries of concern.

QUESTION 4: An article in the March 18, 1994, Wall Street Journal, described a variety of problems encountered by Operation EXODUS. According to the article, Operations Exodus "has lately gotten itself, and the U.S. into a peck of trouble." Do you believe the claims made in the article are accurate? If not, why not? If so, has Customs taken any actions to ensure these mistakes won't be repeated?

ANSWER: The Wall Street Journal article was as a whole inaccurate and misleading. No effort was made to highlight the successes of those investigations referred to in the article, or to discuss other investigations that have been successful in preventing unlawful exports of goods from the United States. As an example, in all but one of the five cases discussed in the subject article, criminal convictions were obtained. Customs chose not to discuss investigative techniques or to comment on the specific cases in this article because some aspects of them are still in litigation and because fugitives are still being sought in connection with certain of the cases.

III. COUNTERFEIT AMERICAN CURRENCY

Question #1: According to an article entitled, "Terror Dollars, Counterfeiters, Cartels and Other Emerging Threats to America's Currency", in the March 6, 1994 Washington Post, the "US dollar has become the target of choice of an increasingly dangerous

collection of drug runners, terrorists and rogue states bent on destabilizing the global political and financial order, or enriching themselves." For example, the article describes a group of high skilled counterfeiters in Lebanon, supported by Syrians and Iranians, who have turned out \$1 billion in nearly perfect \$100 bills. Can you comment?

ANSWER: Various sources have provided information indicating the possible involvement of foreign governments in the production of a highly deceptive counterfeit \$100 Federal Reserve Note. Statistical analysis is currently being conducted in an attempt to determine the quantity and amount of this particular family of counterfeit FRNs which has been produced.

A more comprehensive answer to this question would entail the revelation of sensitive or classified information and thus should be addressed during the closed briefing.

QUESTION #2: Our sense is that the domestic supply of \$50 and \$100 Federal Reserve Notes is basically secure due to the abilities of the Fed's scanners. However, there are probably more of these counterfeit notes in international circulation than are resident here. I would like to know what the policy of the Administration is regarding the off-shore notes. Put otherwise, can you tell me something about the Secret Service's efforts overseas?

ANSWER: The Secret Service is attempting to stem the tide of foreign counterfeiting of United States currency by various means. The Service has increased its investigative liaison efforts with other U.S. Governmental agencies with foreign interests, to include the Central Intelligence Agency, the Drug Enforcement Administration, and the U.S. State Department.

Extensive seminars, directed at the identification of counterfeit U.S. currency, have been provided to foreign governments, police, and financial institutions by the Secret Service.

Task Force operations involving the Secret Service and other government agencies have been established and are currently operational in Nicosia, Cyprus; New Delhi, India; and Bogota, Colombia. One Special Agent assigned to the Honolulu Field Office is also detailed on a permanent rotational basis to Hong Kong.

The Secret Service has, for the last three years, submitted requests, with budgetary documents, for the establishment of five new foreign offices and an increase in the staffing level of the six current operational offices abroad.

Since 1980, in its advisory capacity membership with the Advanced Counterfeit Deterrence Steering Committee and the New Counterfeit Design Task Force, the Secret Service has advocated a new currency design which incorporated low level overt security features, as well as covert security features. The implementation of the recommended security features would assist with the identification of counterfeit United States currency by the general public, not only in the United States, but also overseas.

QUESTION #3: The National Research Center recently issued a report entitled Counterfeit Feature for the Next-Generation Currency Design. It is a very thorough document which takes us back to the first bills produced in 1862 for the Comptroller of the Currency and brings us up to the present and, indeed, beyond. It would like your assessment of this report and where it stands in terms of implementation.

ANSWER: The Counterfeit Deterrent Features for the Next-Generation Currency Design is a report which provides a very accurate and concise analysis of the immediate, intermediate, and long term overt counterfeit deterrence features which could be incorporated into U.S. currency. An assessment of projected future reprographic techniques which could potentially become available to "casual" and "professional" counterfeiters was also conducted.

On April 5, 1994, a meeting was held among the Secretary of the Treasury and representatives of the Secret Service, Bureau of Engraving and Printing, and the U.S. Treasury. At that meeting, fourteen security enhancements recommended by the Advanced Counterfeit Deterrence Steering Committee were presented to the Secretary. The security enhancement recommendations were resultant of the Counterfeit Deterrent Features for the Next-Generation Currency Design report, submitted by the National Research Council.

The determination was made that there would be no change implemented which would change the size or color from the currently issued Federal Reserve Notes. All fourteen of the recommended security enhancements were accepted as viable alternatives and are to be subjected to design and implementation testing over the next year.

Based on the results of the tests and a review by the President of the United States, the security enhancements would be scheduled for implementation over a two (2) year period.

QUESTION #4: Press accounts suggest that terrorists, under the sponsorship of various governments in the Middle East, are often

masterminding the distribution of high quality counterfeit notes. However, the real long term problem may be the growing ability of anyone to use reproduction technology to duplicate our currency. Can you comment? Do you believe Congressional legislation is necessary to resolve this problem or can it be solved administratively?

ANSWER: The face of counterfeiting is changing with the advent of technology evolving in the field of reprographics. The well known counterfeiter of yesterday, who possessed an intricate knowledge of printing techniques, is rapidly being replaced by a counterfeiter who commits his crime when the opportunity presents itself. These crimes of opportunity are fueled by the introduction of an increasingly large number of user friendly devices which enable unskilled individuals to produce extremely deceptive counterfeit Federal Reserve Notes. Such devices and methods include office machine copiers, ink jet technology and computer enhancement.

Because of the advancing technology in the field of reprographics, namely better resolution, coupled with the decreasing cost of equipment, there is a definite potential for any criminally inclined individual to produce highly deceptive counterfeit United States currency on a one time or continuing basis.

The reprographics industry is currently pursuing anti-counterfeiting technology for introduction into their products. If that trend continues, the industry will be able to monitor and control production of counterfeit currently via their own initiatives. If the trend does not continue, it may become necessary to seek Congressional legislation to resolve any problems which might result from the technological advancements.

JOHN CONYERS, JR., MICHIGAN
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ONE HUNDRED THIRD CONGRESS

Congress of the United States
House of Representatives

COMMITTEE ON GOVERNMENT OPERATIONS

2157 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-8143

Subcommittee on Commerce, Consumer, and Monetary Affairs
B-377 Rayburn House Office Building, Washington DC 20515-6144

Majority: (202) 225-4407

March 25, 1994

WILLIAM F. CLINGER, JR., PENNSYLVANIA
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INDEPENDENTMAJORITY: (202) 225-8001
MINORITY: (202) 225-6016The Honorable George J. Weise
Commissioner
U.S. Customs Service
1301 Constitution Ave., NW
Washington, DC 20229

Dear Mr. Commissioner:

Thank you very much for your excellent testimony before our subcommittee. Your testimony was both thoughtful and informative. I was particularly pleased by your reaffirmation of the Administration's commitment to the extra \$18 million to fight textile transshipment. Those of us who received the November 16 letter took President Clinton's promise very seriously and expect to see it carried out. I believe that you are committed to honoring the President's pledge and I look forward to working with you to carry out the commitment. I should add that I believe it is important for these resources to be available this year, not in 1995. NAFTA is already in place and textile imports are increasing.

At the hearing, we discussed my commitment to work for extra money for Customs enforcement. I am convinced that dollars which the federal government spends on Customs enforcement pay dividends worth many times the investment. For example, extra enforcement personnel would help catch importers who are deliberately undervaluing imports in order to evade tariff payments. OMB appears willing to accept this argument for IRS enforcement spending. In fact, the President's FY 1995 budget suggested the possibility of providing an extra \$2 billion in excess of the discretionary cap to IRS for tax enforcement since Treasury will recapture a far greater amount in additional revenue. I would like them to accept this approach for Customs enforcement and I am willing to work with OMB to convince them to adopt this approach.

The following are some additional questions which we did not get the chance to discuss in full. We will make your response part of the official record of the hearing.

A. Commercial and Textile Enforcement

1. Could you describe exactly how the 100 additional personnel dedicated to textile/apparel enforcement will be used? Where will you put them and what functions will they perform? While I know it is impossible for you to tell the subcommittee the precise dates when additional people will be hired, I would appreciate Customs staff providing regular briefings to my staff on the status of the textile initiative.

2. The President's budget requests a \$94 million increase in the Merchandise Processing Fee (MPF) to help pay for the textile initiative. Of the \$94 million, \$18 million will go for the textile initiative and \$26 million will pay for the Automated Commercial System (ACS). The remaining \$50 million will fund Customs commercial programs. The link between the MPF and the textile initiative came as a complete surprise to me. Why did the Administration link the MPF to the textile initiative? Will the Administration object if Congress funds the initiative without increasing the MPF?

3. President Clinton promised in his November 16 letter that Customs would issue by April 1, 1994, draft regulations on "extension of the redelivery period, changes to the mitigation guidelines and issuance of certificates of origin/textile declarations on non-NAFTA qualifying shipments." Under the new regulation, if an importer signs this certificate of origin, will that lower the burden of proof which the government must meet to impose civil transshipment penalties on him?

4. Despite President Clinton's latest textile enforcement initiative, I am concerned that we still don't have adequate resources to crack down on transshipment. In 1974, the total value of textile and apparel imports was \$4.2 billion. In 1984, imports were \$19.3 billion. In 1993, the value of imports grew to \$42 billion. Despite this exponential growth in textile imports, the resources dedicated to textile enforcement have not kept pace. Unfortunately, Customs staff could only provide data on Customs resources earmarked for textile enforcement in 1993 and 1994, not over two decades. But I understand that in the 1970's, Customs inspected roughly 10 percent of the cargo entering the United States. Now I am told we inspect no more than 1 percent of the cargo. Is that true? Do you agree that Customs resources for textile enforcement over the last 20 years have not kept pace with the growth in textile imports?

5. I asked Customs for data on the number of times Customs has caught textile importers violating trade laws and the dollar volume involved. I am told you do not keep this data. It would be helpful to know how often you caught importers incorrectly labeling products' nation of origin, incorrectly describing apparel in order to use an unfilled quota or undervaluing a product to get a lower assessed duty. This information is important in giving us a better picture of the transshipment problem and Customs' effectiveness in addressing it. How difficult would it be to keep this data? Does your initiative to measure compliance under the Chief Financial Officers Act contemplate a measurement for these items?

6. Do you believe that existing civil penalties for transshipment are adequate deterrence? Under current law, if Customs finds that an importer was negligent (as opposed to committing fraud) when importing transshipped products, the most Customs can penalize him is for only 20 percent of the value of the product. In other words, if an importer negligently brings transshipped Chinese shirts worth \$100,000 into the country and Customs finds he was negligent, the most Customs can fine him is \$20,000. Given the high mark-up for products once retailers sell them, a 20 percent fine seems like a tap on the wrists. Do you agree? Would Customs support increased civil and criminal penalties for transshippers? Isn't it true that even when Customs finds transshipped products, the importer has the option of selling the goods abroad and may not even lose title to the goods?

7. What elements must Customs prove to demonstrate "negligence"? How often does Customs use negligence to penalize importers?

8. How much do you believe the Treasury loses annually as a result of importers deliberately undervaluing, overshipping and misclassifying textile products to avoid paying higher tariffs?

9. According to information Customs supplied the Subcommittee, the value of transshipment entering the United States each year is \$4 billion annually. While Customs has had a few noteworthy prosecutions like Chinatex and Gitano, the Justice Department has informed me that in FY93, Customs referred only 22 transshipment matters to Justice for prosecution and Justice accepted only 18. In FY92, Customs referred only 36 matters to Justice and Justice accepted 24. Given the scope of the problem, why are the number of prosecutions so small?

10. Customs import specialists tell me that they are getting mixed messages from Customs' headquarters in Washington. While they believe you are serious about stopping transshipment, they also feel pressure from headquarters to clear products as quickly as possible. Much of this pressure originates with importers who complain when goods are held up. Can you comment?

11. In the attachment to a February 16, 1994, letter to the subcommittee, Deputy Commissioner Banks wrote, "Customs has prepared proposed statutory enhancements to our enforcement activities....Customs believes that these changes in the law would materially assist our enforcement program." Could you provide the subcommittee with a copy of these "statutory enhancements". Where in the review process are these proposals?

12. How would you evaluate the new transshipment language which over 20 textile exporting countries, including China, have accepted in their new bilateral treaties with the United States? What specific provisions are not included which you would like to see in future agreements?

13. Do you agree that during the 1980's, Customs put a much bigger emphasis on traditional law enforcement efforts like drug interdiction at the expense of trade enforcement? What impact do you see that having on Customs's operation today?

14. Could you say what percent of Customs' budget goes to traditional law enforcement efforts like drugs and what percent for commercial enforcement? Has that percentage been constant or changed over the past few years?

15. I am concerned that the total Customs Service budget (including commercial and traditional law enforcement programs) in general does not provide the resources needed for commercial enforcement. In constant dollars, Customs total budget has remained the same since 1987. In 1994 dollars, Customs budget for 1987 and 1994 was \$1.6 billion. Meanwhile, the total value of goods imported into the United States in that period increased by 20 percent to \$580.5 billion. How can Customs be expected to carry out its increasing workload while its budget stays the same?

16. In a February 15 letter from Deputy Commissioner Banks to Chairman Spratt, Mr. Banks provided a summary of Customs employment since 1973. According to this attachment, the Customs had fewer import specialists in FY 1993 (1,140) than it had in 1973 (1,304). My understanding is that import specialists are a critical linchpin in detecting import fraud or transshipment. Can you comment?

17. Industry officials tell me that there was a reduction in seizures of commercial textile transshipment over the last two years. They claim that district directors are nervous about being chastised for "bad" seizures. Is that true?

18. Some in Washington are now discussing the possibility of Caribbean Parity. This would mean extending the NAFTA free trade zone beyond Mexico to the entire Caribbean area. How much more difficult would it make Customs' task in enforcing NAFTA's rule of origin if a dozen more countries were included?

B. Law Enforcement and Export/Import Controls

1. The March 9 Washington Post reported that Customs and BATF discovered tens of thousands of "illegal rifles, including some classified as machine guns and others equipped to mount grenade launchers" that were recently imported from China in violation of federal gun laws. According to the article, BATF has so far discovered 3,000 to 4,000. Many of these weapons have already been sold in the United States and BATF is asking purchasers to return them. I have several questions. First, how did these weapons ever get by Customs officers? Is it too late to get the weapons back from the purchasers? What was the role of the Chinese government in the importation? Was the Chinese government aware of this illegal activity?

Are we facing a similar problem with weapons coming from the former Soviet Union and Eastern European countries which have huge arsenals of surplus weapons?

2. Certain nations like Iraq, North Korea and Iran are reportedly making vigorous efforts to purchase military equipment from Western countries. We learned after the Gulf War that some American equipment, which was illegally sold to Iraq

before the war, was used in Iraq's military machine. What steps is Treasury taking, in conjunction with Commerce and Customs, to prevent the illegal export of either military or dual-use products to outlaw nations?

3. An article in the March 18, 1994, Wall Street Journal, described a variety of problems encountered by Operation Exodus. According to the article, Operation Exodus "has lately gotten itself, and the U.S. into a peck of trouble". Do you believe the claims made in the article are accurate? If not, why not? If so, has Customs taken any actions to ensure these mistakes won't be repeated?

C. Customs Modernization Act

1. Pursuant to the Customs Modernization Act and the National Customs Automation Program, an importer can file any information required by the Customs Service in a remote location. How will remote entry filing impact on the ability of Customs Inspectors to examine goods?

Does the Customs Service envision fewer goods being examined under this provision? Once goods enter commerce, how can you detect such illegal acts as: products being undervalued to get a lower duty; products being improperly designated in order to use an unfilled quota since the correct product line's quota is filled or get a reduced tariff rate; importers claiming products are eligible for GSP tariff free treatment even when they aren't eligible?

2. Will the necessary paperwork be available for Inspectors at the port of entry to examine goods under remote filing? How will the Customs Service deal with the time difference if goods are located in New York and the paperwork is filed in Seattle, Washington? Will the Customs Service delay providing clearance and releasing goods in New York until the Inspector in New York receives the necessary paperwork?

3. I understand that in order to participate in remote filing, an importer will need to present specific core information including automated invoices. However, the legislation states that Customs will only require the invoices in certain situations. When will Customs require the invoices? How will an Inspector properly examine goods without the invoice?

4. It is my understanding that the Mod Act in Section 624 gives Customs authority to seize transhipped textiles only if the article is intentionally mismarked or uses a counterfeit visa. Is that true? If so, is that a narrowing of Customs authority compared to the old law? On the same topic, industry officials tell me that there has been a reduction in seizures of commercial textile transshipment over the last two years. They claim that district directors are nervous about being chastised for "bad" seizures. Is that true?

D. QUESTIONS ON CHIEF FINANCIAL OFFICERS ACT

1. The Customs Service informed the subcommittee that the earliest the agency would come into compliance with the Chief Financial Officers Act of 1990 is FY 1995. I am concerned because Customs has also informed the Subcommittee that parts of the action plan necessary to implement the Act cannot be accomplished before FY 1997. Your testimony expressed a continuing commitment to complying with the CFO Act, but fails to say when. When will Customs be in full compliance with the CFO Act and be able to have its full financial statement approved by the auditors? Why is it taking so long?

2. As a follow-up to our October hearing, I sent a letter to Customs asking for the specific dates when the different financial statements that make up the agency's overall financial statement will be completed. These statements cover accounts receivable, owned and seized assets, and trade statistics. Customs' response did not indicate when these statements will be sufficiently accurate to win the approval of the auditors.

These specific dates are important because Customs' action plan states that some of the key steps which Customs must take to get a clean opinion will not be completed until well after the FY 1995 date given as the "earliest" time accurate financial statements will be available. For example, the action plan indicates that the following steps will not be completed before FY 1997:

- (a) developing a methodology for measuring the collectability of accounts receivable;
- (b) developing controls to ensure that all valid receivables are included in accounts receivable;
- (c) developing the core financial systems used in preparing financial statements; and
- (d) developing measures that ensure importers are paying tariffs required by law.

Must these four steps be taken before Customs receives an accurate financial opinion? Can you explain how the late timing for these items will affect the preparation of an accurate financial statement? What interim steps will be taken before 1997 to assure that Customs will receive a clean opinion? What kind of staff resources are necessary to perform these functions before the automated systems come on line?

4. In your testimony, you state that Customs continues to "dedicate sufficient resources to implement" the CFO. How much in staff resources are you devoting today to implement the CFO Act? How does that compare to the amount you spent since 1990 when the CFO Act first went into place? Do you think that the level of resources is sufficient to get the job done?

- 7 -

5. Information attached to Customs' letter of February 16, 1994, to the subcommittee indicated at least 2.1 percent shortfall for steel, telecommunications, automated data processing equipment, fiberboard, and cars, trucks and parts relative to the amount actually owed. If you project this 2.1 percent figure across the board, how much money is the federal government losing in tariffs owed and not paid? The 2.1 percent shortfall was based on the compliance with "importation and documentary" processing. Could you explain this and how it compares to an overall compliance measurement? For example, was the test conducted with enough data to cover most ports of entry? What, if any, physical inspections were conducted as part of the test?

6. When will Customs be able to prepare a financial statement on revenues that will be able to get a "clean opinion" from the auditors?

7. Could you give an estimate of when corrective steps will be in place to improve the operation of the drawback program? I am specifically interested in knowing when you expect to have an automated method of entering information to verify drawback claims so that drawbacks can be verified.

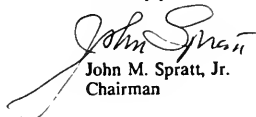
8. According to your testimony, efforts to improve the drawback program have a high priority. If so, why did GAO conclude that Customs has not put a high priority on this change?

9. You indicate in your letter of February 14, 1994, that the revenue losses due to importers improperly receiving drawbacks cannot be estimated and that, as an interim step, you will institute more stringent review and verification procedures for drawback requests. Please describe these steps and tell us when they will be in place. Will you follow GAO's recommendations in their March 7, 1994, report which calls for representative sampling procedures for reviewing drawbacks, improved data base on things like excessive claims made in the past, and better tracking of bonds posted for drawback transactions?

10. Could you give an idea of the types of changes you have instituted to safeguard seized property, especially weapons and narcotics? How will the oversight inspections of these facilities be conducted and when will a report of the findings be available?

11. I am concerned with the very large disparity between the initial penalties and fines that Customs assess and the amount eventually collected (\$7.9 billion v. \$87 million). Your recent correspondence on this issue indicates that you are studying a more rational system. Could you explain this to us and tell us when you expect to make changes?

Sincerely yours,



John M. Spratt, Jr.
Chairman

July 5, 1994

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COMMERCE, CONSUMER AND
MONETARY AFFAIRS SUBCOMMITTEE


The Honorable John M. Spratt, Jr.
Chairman
Subcommittee on Commerce, Consumer,
and Monetary Operations
Committee on Government Operations
House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

I appreciated the opportunity to testify before your Subcommittee. Enclosed are the Customs Service responses to the questions raised in your letter of March 25, 1994.

If you or your staff need any additional information, please do not hesitate to call.

Sincerely,


George J. Weise
Commissioner

Enclosure

QUESTIONS SUBMITTED FOR THE RECORD BY THE CHAIRMAN

COMMERCIAL AND TEXTILE ENFORCEMENT

Question 1. Could you describe exactly how the 100 additional personnel dedicated to textile/apparel enforcement will be used? Where will you put them and what functions will they perform? While I know it is impossible for you to tell the Subcommittee the precise dates when additional people will be hired, I would appreciate Customs staff providing regular briefings to my staff on the status of the textile initiative.

Answer. We will use the import specialists and auditors to expand our "jump team" concept. These new teams will focus on textile transshipment. Customs is currently evaluating several locations. These teams will visit foreign sites to determine if the factory is capable of producing the number of garments exported to the U.S. Jump teams also will be used to train foreign customs officers to identify problem shipments before they arrive at our ports. Current plans project 42 jump team visits in FY 1995, which represents a dramatic increase in enforcement.

To perform the necessary scientific analysis produced by increased enforcement activities, Customs will add chemists in our laboratories. In addition, we plan to increase the number of inspectors, analysts, and entry specialists dedicated to textile enforcement.

In determining where to assign new enforcement personnel, including intelligence research specialists positions, Customs analyzed investigative and statistical data related to the importation of trade sensitive commodities. From this data, specific allocations will be developed.

Enforcement personnel will investigate textile-related violations and participate on production verification "jump teams." The special agents also will conduct criminal and civil investigations involving violations of customs laws. Customs foreign offices will provide on-site assistance to exporters and foreign industries regarding U.S. import laws and regulations, as well as assist in investigations.

In addition, intelligence personnel will collect, analyze, and disseminate information related to all violations. Intelligence research specialists will be assigned to special operations, and to domestic and overseas investigative operations.

Question 2. The President's Budget requests a \$94 million increase in the Merchandise Processing Fee (MPF) to help pay for the Automated Commercial System (ACS). The remaining \$50 million will fund Customs commercial programs. The link between the MPF and the textile initiative came as a complete surprise to me.

Why did the Administration link the MPF to the textile initiative? Will the Administration object if Congress funds the initiative without increasing the MPF?

Answer. The activities to be funded by the NAFTA/Textile Enforcement Initiative in the FY 1995 President's Budget Request are commercial activities in the Customs Service. Since the Merchandise Processing Fee collections are used to offset the costs of Customs commercial operations, an adjustment to the fee would be made to increase the collections to cover the cost of the proposed FY 1995 initiative. Unfortunately, the MPF cannot be increased without legislation because the current fee amounts have reached the maximums allowed by law. Therefore, the budget request proposes the legislative change to provide the Secretary with authority to raise the fee amounts to cover the increased Customs commercial costs and increase the cap.

If the Congress funds the initiative without increasing the MPF, the Customs Service will be collecting the MPF for less than the costs of its commercial activities. The additional revenue would consequently come from another source as determined by the Congress.

Question 3. President Clinton promised in his November 16 letter that Customs would issue by April 1, 1994, draft regulations on "extension of the redelivery period, changes to the mitigation guidelines and issuance of certificates of origin/textile declarations on non-NAFTA qualifying shipments." Under the new regulation, if an importer signs this certificate of origin, will that lower the burden of proof which the Government must meet to impose civil transshipment penalties on him?

Answer. No, the burden of proof does not change; however, if a false certificate of origin is provided to Customs, it would likely result in the initiation of a penalty action against the party who falsified the certificate.

Question 4a. Despite President Clinton's latest textile enforcement initiative, I am concerned that we still don't have adequate resources to crack down on transshipment. In 1974, the total value of textile and apparel imports was \$4.2 billion. In 1984, imports were \$19.3 billion. In 1993, the value of imports grew to \$42 billion. Despite this exponential growth in textile imports, the resources dedicated to textile enforcement have not kept pace. Unfortunately, Customs staff could only provide data on Customs resources earmarked for textile enforcement in 1993 and 1994, not over two decades. But I understand that in the 1970's, Customs inspected roughly 10 percent of the cargo entering the United States. Now I am told we inspect no more than one percent of the cargo. Is that true? Do you agree that Customs resources for textile enforcement over the last 20 years have not kept pace with the growth in textile imports?

Answer. In general, Customs resources have not kept pace with the growth in all imports, including textiles. In particular, the number of import specialists has remained basically unchanged, despite the phenomenal growth in total imports. As a result, Customs has not been able to review every entry, but has established methods to more effectively target high-risk shipments. Therefore, in many ports, the percentage of textile entries closely reviewed has not significantly decreased. In addition, in many of the larger ports, the textile entries are carefully reviewed at a higher rate than the general cargo.

Question 4b. Do we inspect no more than one percent of cargo?

Answer. No. In FY 1993, we inspected 5.6 percent of all cargo released in the United States.

Question 4c. Do you agree that Customs resources for textile enforcement over the last 20 years have not kept pace with the growth in textile imports?

Answer. It is true that textile trade activities have increased within the last 20 years; however, Customs resources have not kept pace. Customs has used its resources to develop an electronic information system to more effectively target high-risk cargo. Through the use of selectivity processing, Customs has improved its level of compliance while facilitating the free flow of legitimate trade.

Question 5. I asked Customs for data on the number of times Customs has caught textile importers violating trade laws and the dollar volume involved. I am told you do not keep this data. It would be helpful to know how often you caught importers incorrectly labeling products' nation of origin, incorrectly describing apparel in order to use an unfilled quota, or undervaluing a product to get a lower assessed duty. This information is important in giving us a better picture of the transshipment problem and Customs effectiveness in addressing it. How difficult would it be to keep this data? Does your initiative to measure compliance under the Chief Financial Officers Act contemplate a measurement for these items?

Answer. Textile violations are detected either at time of examination or through entry summary review. At time of examination, goods may be detained or seized. Entry summary review can lead to inquiries by the import specialist that could result in the issuance of a notice to redeliver the goods or a referral for investigation to the Office of Enforcement.

Currently, seizures are reported through automation, and field personnel have recently been advised of certain codes to use which will enable us to specifically identify textile seizures. Customs is in the process of automating detentions so that such data can be gathered on detentions in the future.

Customs does not plan to automate the notice to redeliver. Collection of data on redeliveries would thus have to be accomplished manually in each district office, which would be very time-consuming and burdensome for Customs.

Question 6. Do you believe that the existing civil penalties for transshipment are adequate deterrence? Under current law, if Customs finds that an importer was negligent (as opposed to committing fraud) when importing transshipped products, the most Customs can penalize him is for only 20 percent of the value of the product. In other words, if an importer negligently brings transshipped Chinese shirts worth \$100,000 into the country and Customs finds he was negligent, the most Customs can fine him is \$20,000. Given the high mark-up for products once retailers sell them, a 20 percent fine seems like a tap on the wrists. Do you agree? Would Customs support increased civil and criminal penalties for transshippers? Isn't it true that even when Customs finds transshipped products, the importer has the option of selling the goods abroad and may not even lose title to the goods?

Answer. Customs believes that its criminal and civil penalties are adequate deterrents in the area of violations resulting from transshipment. Nevertheless, Customs would closely review legislation to enhance Customs seizure authority involving importation of violative articles which have been the subject of illegal transshipment.

With respect to your concerns regarding the sufficiency of Customs negligence penalties, Customs is satisfied that such penalties are more than a tap on the wrist, and are adequate and appropriate in cases where the violator merely fails to exercise the degree of care expected from a party under similar circumstances. More serious, or repetitive violations will, of course, be treated more harshly under the increased penalties for gross negligence or fraud--e.g., up to the domestic value of the offending goods in cases of fraud.

If Customs determines that articles are imported which bear a false designation of country of origin (which is the typical transshipment scenario), and Customs seizes the offending articles, it is true that Customs may release the goods for export under Customs supervision provided that the false markings are removed or obliterated. Of course, if the articles are prohibited or pose a danger to public health or safety, export would ordinarily be disallowed. It should be noted that release for export occurs with respect to seizures, and would not, ordinarily be relevant in cases of civil penalty assessment inasmuch as Customs does not take possession of the articles in such cases. Also, in seizure cases, where release by Customs is authorized, it is likely that the party has retained title to the goods.

Question 7. What elements must Customs prove to demonstrate "negligence"? How often does Customs use negligence to penalize importers?

Answer. In order to find negligence, under 19 U.S.C. 1592, Customs must show that there has been an entry, attempted entry, introduction, or attempted introduction, of merchandise into the United States by means of a false statement, omission or act. In addition, the false statement act or omission must be **material** (i.e., potentially affects admissibility, Customs classification or appraisement, etc.). After that, the burden shifts to the importer to demonstrate that he or she acted with reasonable care under the circumstances. Failure to do so will result in a finding of a negligent violation.

It is fair to say that most commercial violations involving a material false statement, act, or omission are committed through an importer's ordinary negligence, and make up the bulk of Customs civil penalty cases initiated under 19 U.S.C. 1592. On the other hand, gross negligence and fraud cases require higher burdens of proof for Customs. Unlike negligence cases, in order to establish the higher levels of culpability of gross negligence or fraud, Customs must adduce evidence of the alleged conduct--by clear and convincing evidence in cases of fraud, and by a preponderance of the evidence in gross negligence cases. Put another way, negligence cases are like unintentional fender benders and occur more frequently than intentional or grossly negligent violations.

Question 8. How much do you believe the Treasury loses annually as a result of importers deliberately undervaluing, overshipping, and misclassifying textile products to avoid paying higher tariffs?

Answer. In order to provide valid estimates of revenue loss and general compliance, Customs instituted a new methodology in FY 1993. Currently, in FY 1994, we are training all personnel in this methodology. In FY 1995, we will provide national measures of commercial compliance across industry lines.

A limited measurement of the commercial compliance of textiles (Chapters 61, 62, and 63 of the Harmonized Tariff Schedule) is currently being conducted in New York, Los Angeles, and San Francisco. Preliminary results from this measurement indicate that the Customs revenue gap in textiles is less than one percent of the total duties collected for this merchandise.

Through the measurement of commercial compliance, Customs will be able to accurately measure the Customs "revenue gap" and will focus its examination and review resources on closing that gap.

Question 9. According to information supplied to the Subcommittee, the value of transshipments entering the United

States each year is \$4 billion annually. While Customs has had a few noteworthy prosecutions like Chinatex and Gitano, the Justice Department has informed me that in FY 1993, Customs referred only 22 transshipment matters to Justice for prosecution and Justice accepted only 18. In FY 1992, Customs referred only 36 matters to Justice and Justice accepted 24. Given the scope of the problem, why are the number of prosecutions so small?

Answer. In regards to the \$4 billion figure cited for the value of annual transshipments, U.S. Customs believes that a more realistic estimate--and we emphasize estimate--of the annual transshipment figure is \$2 billion.

With respect to criminal cases, U.S. Customs aggressively investigates all allegations of violations of Customs laws and regulations and strives to present quality cases to the U.S. Attorneys for criminal prosecution. It is U.S. Customs goal to deliver criminal cases that are supported by both documentary evidence and testimony from individuals with direct knowledge of the violation. Since Customs violations are economic crimes, they are traditionally document intensive and complex. These investigations are often time consuming and cannot be evaluated on a quota system, such as that used to regulate textile importations. Consequently, the U.S. Attorneys enjoy a high rate of successful prosecutions in Customs transshipment cases, because of these high standards and the fact that U.S. Customs refers only its high-quality cases for criminal prosecution.

Finally, Customs laws and regulations provide a unique alternative sanction to criminal prosecution. Cases that do not meet criminal prosecution thresholds set by the Department of Justice can and are resolved via civil penalty action under Title 19, United States Code, Section 1592.

U.S. Customs must respectfully defer the response to the question concerning why more transshipment cases are not prosecuted to the Department of Justice. U.S. Customs only investigates allegations of violations of the import laws and regulations. The Department of Justice is solely responsible for the criminal prosecution of violations of U.S. law. For that reason, U.S. Customs is unable to answer any question related to the number of cases accepted for prosecution.

Question 10. Customs import specialists tell me that they are getting mixed messages from Customs headquarters in Washington. While they believe you are serious about stopping transshipment, they also feel pressure from headquarters to clear products as quickly as possible. Much of this pressure originates with importers who complain when goods are held up. Can you comment?

Answer. Over many years Customs has been trying to maintain a balance between facilitating the importation of goods by honest importers and the trade enforcement required to prevent

inadmissible or violative goods from entering the commerce of the United States. Through the years, Customs has experienced swings back and forth from emphasis on facilitation to emphasis on stronger trade enforcement. At present, our policy is directed toward stronger trade enforcement, as exemplified in our trade enforcement strategy and our commitment to stronger enforcement of the new fraud language in the bilateral textile agreements of the United States.

Question 11. In the attachment to a February 16, 1994, letter to the Subcommittee, Deputy Commissioner Banks wrote, "Customs has prepared proposed statutory enhancements to our enforcement activities...Customs believes that these changes in the law would materially assist our enforcement program." Could you provide the Subcommittee with a copy of these "statutory enhancements"? Where in the review process are these proposals?

Answer. As provided for in Section 614 of the Modernization Act, Customs has strengthened its record keeping requirements by increasing the penalty amount for an owner, importer, consignee, or entry filer who fails to make, keep, and render for examination and inspection importation records which are normally kept in the ordinary course of business. Other proposals are still in the Administration legislative clearance process. We will be pleased to provide you copies when these materials are cleared.

Question 12. How would you evaluate the new transshipment language which over 20 textile exporting countries, including China, have accepted in their new bilateral treaties with the United States? What specific provisions are not included which you would like to see in future agreements?

Answer. Customs has contributed to and helped to mold the transshipment language being used in the new bilateral treaties. I feel that the language as written can be effective to help enforce these bilateral agreements. They have not been in force long enough to determine how effective they are. At the present time we do not feel that any changes are necessary.

Question 13. Do you agree that during the 1980's, Customs put a much bigger emphasis on traditional law enforcement efforts like drug interdiction at the expense of trade enforcement? What impact do you see that having on Customs operation today?

Answer. U.S. Customs responsibilities are unique, in that we are tasked with enforcing hundreds of laws on behalf of many agencies at the border. I believe that the U.S. Customs Service maintained an effective trade enforcement program during the 1980's that was responsive to the demands of international trade and the level of threat that existed at that time.

What I believe happened is that Customs was faced with an unprecedented increase in commercial traffic, an increased demand

from the importing community for effective processing of legitimate cargoes, and new threats to U.S. industry created by the emergence of new trading partners. As a result, Customs had to rethink and focus its trade enforcement efforts. In that regard, Customs implemented several new trade enforcement initiatives in an effort to increase our effectiveness and enhance our position as an international enforcement leader.

These programs include the following:

1. Customs has implemented a comprehensive trade enforcement strategy which is responsive to changing international trade issues and identifies trade enforcement priority areas.
2. Customs fraud investigations are focused on trade issues and predatory trade practices which impact the revenue, health, safety, environment, and economy of the U.S.
3. Customs continues to apply new proactive approaches to fraud enforcement, i.e., jump teams, a textile training program for special agents and import specialists, and a comprehensive training course in Customs criminal fraud for Assistant U.S. Attorneys.

Question 14. Could you say what percent of the Customs budget goes to traditional law enforcement efforts like drugs and what percent for commercial enforcement? Has that percentage been constant or changed over the past few years?

Answer. Customs budget has been split 60 percent to 40 percent commercial to enforcement for the past five years. That percentage split has varied only by small amounts from year to year, with the trend towards commercial programs.

Question 15. I am concerned that the total Customs Service budget (including commercial and traditional law enforcement programs) in general does not provide the resources needed for commercial enforcement. In constant dollars, Customs total budget has remained the same since 1987. In 1994 dollars, Customs budget for 1987 and 1994 was \$1.6 billion. Meanwhile, the total value of goods imported into the United States in that period increased by 20 percent to \$580.5 billion. How can Customs be expected to carry out its increasing workload while its budget stays the same?

Answer. Over ten years ago, facing tightening budget constraints, the Customs Service realized it would have to change the way it did business to keep up with increased trade if Customs resources did not increase commensurately. As a result, Customs developed the Automated Commercial System (ACS), to automate as much of the existing process as possible.

To continue this success, Customs has an initiative in this budget to develop a modernized successor to ACS to enable the

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Agency to continue to successfully process merchandise imports into the next decade.

Question 16. In a February 15 letter from Deputy Commissioner Banks to Chairman Spratt, Mr. Banks provided a summary of Customs employment since 1973. According to this attachment, Customs had fewer import specialists in FY 1993 (1,140) than it had in 1973 (1,304). My understanding is that import specialists are a critical linchpin in detecting import fraud or transshipment. Can you comment?

Answer. Import specialists are on the front lines to detect and prevent transshipments. While it is true that the number of Import Specialists have decreased in the past 20 years, this decrease has been compensated for by the proliferation of computer technology, namely Customs use of the Automated Commercial System (ACS). This system has enabled Import Specialists working with certain commodities to more quickly and efficiently process their workload by bypassing low-risk, non-textile transactions from designated importers and/or countries. This system has also given Import Specialists the ability to effectively target certain transactions, by using pertinent importation history that is stored within ACS. The reduction of Import Specialists has also been offset by the increase in productivity due to training, particularly in the area of textiles. Specifically, training for Import Specialists participating in jump team visits has recently been developed to assist in the combatting of textile transshipment.

Question 17. Industry officials tell me that there was a reduction in seizures of commercial textile transshipment over the last two years. They claim that district directors are nervous about being chastised for "bad" seizures. Is that true?

Answer. Customs has been trying to maintain the delicate balance necessary to facilitate cargo movements and yet prevent the illegal transshipment of textiles. There has been a reduction in the number of seizures made in the last two years, because our current policy allows the importer more options in lieu of seizure. Those options include denied entry, obtaining a new visa, destruction, abandonment, and export.

Question 18. Some in Washington are now discussing the possibility of Caribbean Parity. This would mean extending the NAFTA free trade zone beyond Mexico to the entire Caribbean area. How much more difficult would it make Customs task in enforcing NAFTA's rule of origin if a dozen more countries were included?

Answer. U.S. enforcement of the NAFTA rule of origin to include the Caribbean Basin countries would be largely dependent upon the ability of newly included countries to train their public as well as their own customs personnel in country of origin determinations, the administrative procedures which reflect these decisions, and enforcement. The timing and success

of such training will affect the ease or difficulty of our own task.

Other factors include Congressional intent and the text of the agreement decided upon, whether or not there would be changes to the U.S. regulations, whether new regulations would be necessary, and whether the U.S. would provide assistance to the additional countries for training or other purposes.

It is possible that under certain circumstances (i.e., based on our previous NAFTA experience with automated systems, research and training) the inclusion of additional countries would be an ease rather than a burden. Caribbean countries must have or would have to develop a sophisticated understanding of the agreement and the requirements surrounding these specialized determinations. Their ability to do so may be affected by several factors, including the financial stability of the country, and whether or not they can easily adapt their experiences with CBERA (a unilateral agreement conferring benefits) to a multilateral and reciprocal agreement.

LAW ENFORCEMENT AND EXPORT/IMPORT CONTROLS

Question 1a. The March 9 Washington Post reports that Customs and the Bureau of Alcohol, Tobacco, and Firearms (BATF) discovered tens of thousands of "illegal rifles, including some classified as machine guns and others equipped to mount grenade launchers," that were recently imported from China in violation of Federal gun laws. According to the article, BATF has so far discovered 3,000 to 4,000. Many of these weapons have already been sold in the United States and BATF is asking purchasers to return them. I have several questions. First, how did these weapons ever get by Customs officers?

Answer. As acknowledged in the Customs Modernization Act, Customs does not have the resources to examine every cargo shipment entering the United States. In the case of weapons importations, Customs reviews the required documentation. Unless we have prior knowledge of possible irregularities, we evaluate all of the documentation, including the required BATF licenses, and if genuine and in order, the shipments are cleared on description. The shipments may also be randomly selected for examination.

The automatic weapons from China noted in your question, contain one minor difference from the legal semi-automatic weapons. Without prior information, it would necessitate special expertise in weaponry for the inspector to detect the discrepancy. Once we were notified of a problem with the Chinese weapons, our staff met with BATF. We obtained a sketch of the legal and illegal weapons and the names of the manufacturers of the weapons. We immediately added the information to our database to target further importations of weapons from the identified countries and manufacturers. We also added "images"

of the targeted weapons in our system which graphically indicate the difference between the legal and illegal rifles. Our Trade Information Development Exchange group contacted BATF and the FBI to obtain samples and detailed descriptive literature to develop an instructional video tape for the inspectors.

Question 1b. Is it too late to get the weapons back from the purchasers?

Answer. The information we received is not specific enough to determine particular entries which contained the illegal weapons. There have been a number of shipments by different importers. Not all of the shipments contained the automatic weapons.

Question 1c. What was the role of the Chinese Government in the importation?

Answer. We are currently conducting an investigation. To date, we have no indication of complicity by any Chinese government officials.

Question 1d. Was the Chinese government aware of this illegal activity?

Answer. There is no evidence that the Chinese government was aware of this activity.

Question 1e. Are we facing a similar problem with weapons coming from the former Soviet Union and Eastern European countries which have huge arsenals of surplus weapons?

Answer. The potential for attempted illegal importations always exists. However, at this time we have no evidence that illegal weapons are entering the United States from the former Soviet Union and Eastern European countries.

Question 2. Certain nations like Iraq, North Korea and Iran are reportedly making vigorous efforts to purchase military equipment from Western countries. We learned after the Gulf War that some American equipment, which was illegally sold to Iraq before the war, was used in Iraq's military machine. What steps is Treasury taking, in conjunction with Commerce and Customs, to prevent the illegal export of either military or dual use products to outlaw nations?

Answer. The U.S. Customs Service enforces U.S. export laws, employing all conventional investigative tools, including but not limited to outbound inspections and undercover investigations to discover efforts by proliferators and countries of concern to acquire sensitive and licensable U.S. products. Customs devoted an average of 270 agent staff years over the last several years to export enforcement. Customs secured an average of 180 indictments during these years. These indictments, due in part

to our outstanding working relationship with the Departments of Defense, State, and Justice, as well as the intelligence community, led to the successful prosecution of individuals and organizations attempting to export: Beryllium (used in the manufacture of weapons grade uranium) to Pakistan; carbon-carbon missile products to Egypt; mustard gas chemical precursors to Iran; gyroscopes used in missiles to South Africa; Contam computer software relating to missile research and development to South Africa and missile warhead detonation capacitors to Iraq.

Customs has made many seizures including significant proliferation components such as, in June 1990, a skull furnace capable of casting highly enriched uranium for nuclear bomb cores as well as melting titanium for fabricating ballistic missile components destined for Iraq.

Customs-established expertise, as demonstrated in the quantity and quality of our enforcement results, has led Customs into the position of conducting extensive training for U.S. agencies involved in non-proliferation control. Customs also conducts comprehensive non-proliferation export training for foreign law enforcement officials including foreign Customs Services, especially in Eastern European countries and in the former Soviet Union.

Customs is actively engaged in the acquisition and the exchange of both strategic and tactical intelligence concerning non-proliferation issues. Customs participates in all of the policy and working groups established by the CIA's Non-Proliferation Center (NPC). Customs representatives sit on the Proliferation Interdiction Policy Board as well as actively participating in various technology monitoring groups.

Customs also relies on the receipt of or access to information about potential/actual violations. For example, with regards to Iraq, the Customs Service has reviewed seized Iraq war material returned to the U.S., and has conducted an extensive evaluation of information received from the United Nations Special Commission (UNSCOM) and the International Atomic Energy Agency (IAEA) which pertains to Iraq. The significant majority of material sourced by Iraq for their war production was from other than U.S. sources, and what was of U.S. origin was generally found to have been lawfully licensed to Iraq prior to the Kuwait invasion. The Department of Justice has had an ongoing intensive task force on Iraq prosecutions which has been supported by Customs resources.

Customs entered into a Memorandum of Understanding in September 1993 with the Department of Commerce on investigative cooperation and information sharing. This agreement provides for, among other things, increased communication regarding enforcement of the Export Administration Act (EAA) pertaining to dual-use exports. In addition, Customs continues to enforce the export licensing requirements of the Department of State for

defense articles, and sanction enforcement for the Department of the Treasury, Office of Foreign Assets Control. Customs is also specifically targeting potential unlawful exports of U.S. material destined to countries other than Iraq, such as Iran and North Korea, as well as other proliferating countries and countries of concern.

Information is the key element in order to identify unlawful export shipments and brokers of material who transship lawfully exported goods to an intermediate consignee, and then divert to unlawful end users. Customs is endeavoring to develop an Automated Export System (AES) which will facilitate exports and streamline the export process. AES will also provide a basis for more precise targeting of export shipments pertaining to the illegal export of components for the weapons of mass destruction, smuggled currency, stolen motor vehicles and will, in addition, more effectively collect Harbor Maintenance Fees.

Question 3. An article in the March 18, 1994, Wall Street Journal, described a variety of problems encountered by Operation EXODUS. According to the article, Operations Exodus "has lately gotten itself, and the U.S. into a peck of trouble." Do you believe the claims made in the article are accurate? If not, why not? If so, has Customs taken any actions to ensure these mistakes won't be repeated?

Answer. The Wall Street Journal article was inaccurate and misleading. No effort was made to highlight the successes of those referenced cases in the article, or to discuss successful cases which have shown positive results in the curtailment of proliferators from obtaining U.S. material contrary to law. As an example, in all but one of the five cases discussed in the subject article, criminal convictions were obtained. Customs elected not to discuss investigative techniques nor comment on the specific cases in this article. In fact, some of the cases still have derivative litigation and fugitives.

The article did not strive to identify the positive nature of the EXODUS program and the global complexity of export enforcement. International cooperation involved in these types of cases is an absolute requirement. Without international cooperation, export cases could never be brought to prosecution by any country.

In every case involving the numerous violations of law enforced by Customs, management learns from the results of cases brought to prosecution. Whenever a jury or the court declines to convict, the prosecutor and the investigator examine the factual basis of the crimes and determine what should have been done differently from an investigative standpoint, or what might have been presented differently to the jury or the court. The selective reporting of only a part of each case in this article is biased, and unfortunately does not accurately reflect the success of the Customs Operation EXODUS program.

CUSTOMS MODERNIZATION ACT

Question 1a. Pursuant to the Customs Modernization Act and the National Customs Automation Program, an importer can file any information required by the Customs Service in a remote location. How will remote entry filing impact on the ability of Customs Inspectors to examine goods?

Answer. Regardless of where the entry information is submitted to Customs, all relevant information, e.g. manifest, invoice, etc., must still be made available at the examination site. Therefore, the ability of Customs Inspectors to conduct examinations will not be impacted.

Question 1b. Does the Customs Service envision fewer goods being examined under this provision?

Answer. The concept of remote entry filing should not increase or decrease the TOTAL number of examinations that take place nationwide. There may, however, be an increase or decrease in the number of examinations at specific locations since filers can indicate the location where they want the examination to occur. Customs will always have the option to override the filer's location request to conduct examinations for enforcement purposes.

Question 1c. Once goods enter commerce, how can you detect such illegal acts as: products being undervalued to get a lower duty; products being improperly designated in order to use an unfilled quota, since the correct product line's quota is filled, or to get a reduced tariff rate; importers claiming products are eligible for GSP tariff-free treatment even when they aren't eligible?

Answer. The Mod Act does not contain any specific provisions dealing with the items you mention. However, the Mod Act does create incentives for companies to become more automated. Automation will enable Customs to utilize automated analytical techniques to identify possible violations of the types you describe. We plan to use these analytical capabilities, coupled with an enhanced post-entry auditing program, to improve our enforcement in those types of situations.

The Mod Act does contain a new legal provision requiring importers to utilize "reasonable care" in making their entries. This responsibility, coupled with the development of improved automated analytical targeting capabilities, should significantly improve Customs enforcement program.

Question 2a. Will the necessary paperwork be available for Inspectors at the port of entry to examine goods under remote filing?

Answer: When all the requirements of remote filing are met, pertinent information will be available in the system for review by Customs officers at every location. However, if paper documentation is required, prior to January 1, 1999, it must be presented at the designated location (examination location). After December 31, 1998, if paper documentation is required for release, it must be presented at the designated location. If it is not required, it must be presented to a remote location specified by Customs or the designated location.

Question 2b. How will the Customs Service deal with the time difference if goods are located in New York and the paperwork is filed in Seattle, Washington? Will the Customs Service delay providing clearance and releasing goods in New York until the Inspector in New York receives the necessary paperwork?

Answer. In order to qualify for filing from a remote location, a participant must have the capability to provide, on an entry-to-entry basis, the electronic entry (CF 3461), electronic entry summary (CF 7501), electronic payment, electronic transmission of invoice information, and other electronic capabilities within the existing or planned components of National Customs Automated Program (NCAP). Therefore, entry information will be available to Customs Inspectors prior to examination, regardless of where the entry is filed. This entry information will also be processed through cargo selectivity prior to release. If paper documentation is required, as stated in question 2, it must be presented at the designated location (examination location), which in this scenario is New York. Therefore, no delays in the release of cargo should ensue.

Question 3a. I understand that in order to participate in remote filing, an importer will need to present specific core information including automated invoices. However, the legislation states that Customs will only require the invoices in certain situations. When will Customs require the invoices?

Answer. No decision has been made as to when Customs will require invoices. First, we want to evaluate the impact on both Customs and the trade that the collection of a potential range of data, from no invoice information to complete invoice information, for each transaction would have on Customs and the trade. To make this evaluation, we must consider such factors as the cost of data transmission, the cost of data storage, and the value and benefits Customs would derive from collecting differing percentages of invoices data.

Question 3b. How will an Inspector properly examine goods without the invoice?

Answer. We do not foresee that Customs will perform any physical examinations for commercial purposes without requiring the submission of an invoice. Customs considers remote location filing to be a privilege, and like any privilege, it may be revoked if abused. In order to participate in remote entry filing, participants must meet specific requirements.

Customs has formulated a "Strawman" proposal regarding remote entry filing for cargo release purposes. Before presenting this proposal to the trade community for comments, Customs must develop a proposal for the entire remote entry filing process.

Question 4. It is my understanding that the Mod Act in Section 624 gives Customs authority to seize transshipped textiles only if the article is intentionally mismarked or uses a counterfeit visa. Is that true? If so, is that a narrowing of Customs authority compared to the old law? On the same topic, industry officials tell me that there has been a reduction in seizures of commercial textile transshipment over the last two years. They claim that district directors are nervous about being chastised for "bad" seizures. Is that true?

Answer. Yes, Section 624 of the Mod Act gives Customs authority to seize transshipped textiles only if the article is intentionally mismarked or is covered by a counterfeit visa. In fact, if the term "intentionally mismarked" is construed liberally, we may be in a better position than previously. In instances where the goods are labeled as from a country other than the country of actual production, we are considering the merchandise to be intentionally mismarked.

Customs has been trying to maintain the delicate balance necessary to facilitate cargo movements and yet prevent the illegal transshipment of textiles. There has been a reduction in the number of seizures made in the last two years because our current policy allows the importer more options in lieu of seizure. Those options include denied entry, obtaining a new visa, destruction, abandonment and export.

QUESTIONS ON CHIEF FINANCIAL OFFICERS ACT

Question 1. The Customs Service informed the Subcommittee that the earliest the Agency would come into compliance with the Chief Financial Officers Act of 1990 is FY 1995. I am concerned because Customs has also informed the Subcommittee that parts of the action plan necessary to implement the Act cannot be accomplished before FY 1997. Your testimony expressed a continuing commitment to complying with the CFO Act, but fails to say when. When will Customs be in full compliance with the CFO Act and be able to have its full financial statement approved by the auditors? Why is it taking so long?

Answer. The soonest Customs can realize its ultimate goal of achieving an unqualified opinion is with the FY 1995 annual

report. This will result from the commitment of our managers and employees to improving the financial condition of Customs, and the implementation of sufficient system improvements, strengthening internal controls and ensuring compliance with policies and procedures.

Customs current accounting and ancillary systems report information on a cash-basis rather than accrual-basis of accounting. Customs ancillary systems were developed in prior years to accommodate processing associated with Customs operations rather than Customs accounting needs. To prepare Customs financial statements, a laborious manual effort is undertaken to review the records contained within the automated systems, identify manual records not included in the automated systems, and convert all automated and manual data from a cash-basis to an accrual-basis of accounting. Customs will not have a full financial statement in a condition to be approved by the auditors until significant efforts are completed to modify the automated systems and develop sufficient internal control and compliance measures in both the automated and operational procedures.

Question 2. As a follow-up to our October hearing, I sent a letter to Customs asking for the specific dates when the different financial statements that make up the Agency's overall financial statement will be completed. These statements cover accounts receivable, owned and seized assets, and trade statistics. Customs response did not indicate when these statements will be sufficiently accurate to win the approval of the auditors.

Answer. The FY 1993 financial statements were presented to GAO on April 7, 1994. The pre-audit work performed by Customs relating to accounts receivable was completed in March 1994. Customs also performed a 100 percent inventory of all seized items on February 11, 1994. The seized inventory footnote presented in the financial statements reflects information as of February 11, 1994, and not September 30, 1993. Presenting the seized information as of February 11, 1994, will be identified as an audit finding in the FY 1993 audit report, however, the data presented is more accurate and supportable than the information available on September 30, 1993.

Customs financial statements are prepared only after an extensive manual effort is completed. Customs automated systems and the data contained within them are not in a condition to permit the preparation of financial statements on an accrual basis of accounting. An extensive manual intervention is needed to review and analyze the systems data for validity and to obtain additional information maintained in manual files to ensure completeness. This need for manual effort identifies significant internal control and compliance weaknesses and increases the probability that errors can be made in the financial statement compilation process. Systems modification enhancements must be

completed to eliminate the manual intervention. The financial statements will not win the approval of the auditors until the systems enhancements are completed and the level of control and compliance weaknesses reduced. The earliest possible implementation of all system enhancements needed to eliminate the control and compliance weaknesses is FY 1997. Customs believes sufficient system enhancements can be completed by FY 1995 that will diminish the manual effort to a point acceptable to the auditors.

Question 3. These specific dates are important because Customs action plan states that some of the key steps which Customs must take to get a clean opinion will not be completed until well after the FY 1995 date given as the "earliest" time accurate financial statements will be available. For example, the action plan indicates that the following steps will not be completed before FY 1997:

- (a) developing a methodology for measuring the collectibility of accounts receivable;
- (b) developing controls to ensure that all valid receivables are included in accounts receivable;
- (c) developing the core financial systems used in preparing financial statements; and
- (d) developing measures that ensure importers are paying tariffs required by law.

Must these four steps be taken before Customs receives an accurate financial opinion? Can you explain how the late timing for these items will affect the preparation of an accurate financial statement? What interim steps will be taken before 1997 to assure that Customs will receive a clean opinion? What kind of staff resources are necessary to perform these functions before the automated systems come on line?

Answer. Customs and GAO have developed a methodology for measuring the collectibility of accounts receivable and identified the controls to identify all valid receivables for the FY 1993 financial statements. GAO software was utilized to identify a sample of items tested by Customs, and Customs workpapers are being incorporated into GAO's audit workpapers. These same methodologies will be reviewed by the Office of the Inspector General, Customs FY 1994 auditors, shortly for approval in compiling the FY 1994 statements.

The efforts to compile the FY 1993 accounts receivable are a prime example of the extensive manual effort required to identify amounts to report on the FY 1993 financial statements. While GAO reviewed and approved every step required to identify the FY 1993 accounts receivable, the limits in the automated systems to identify the amount indicates significant reportable internal

control and compliance weaknesses. The soonest Customs expects its automated systems, including the methodology agreed to by the auditors, to be in a condition to eliminate the control and compliance weaknesses is FY 1997. Customs expects to enhance its automated systems to a sufficient degree to alleviate the audit concerns by FY 1995.

Question 4. In your testimony, you state that Customs continues to "dedicate sufficient resources to implement" the CFO. How much in staff resources are you devoting today to implement the CFO Act? How does that compare to the amount you spent since 1990 when the CFO Act first went into place? Do you think that the level of resources is sufficient to get the job done?

Answer. Customs FY 1993 efforts to compile financial statements included eight full-time accountants, four full-time accounting technicians, and a number of temporarily detailed personnel with accounting backgrounds from our Office of Management. These personnel were supplemented by additional resources from Customs other Headquarters and Regional offices to complete tasks outlined in various year-end directives and procedures. Customs is in the process of selecting an additional six accountants dedicated full-time to the CFO effort for FY 1994 and will be selecting another additional six accountants to be dedicated to CFO in FY 1995 (pending budget approval). Customs utilized 6 accountants and 20 contracted employees in completing the FY 1992 financial statements, the first year in which Customs prepared CFO financial statements. Customs chose to eliminate the contractor staff and their related exorbitant costs, and perform the financial statement work in-house. It should be recognized that the CFO actually involves a significant dedication of other field and managerial resources.

Customs is also creating an executive group in Washington to develop recommendations to resolve the audit findings reported by our auditors. This group, whose charter is currently being developed, will be composed of personnel from a diverse operational background within Customs and will seek to develop the steps needed to resolve and implement operational and automated improvements.

Question 5. Information attached to Customs letter of February 16, 1994, to the Subcommittee indicated at least 2.1 percent shortfall for steel, telecommunications, automated data processing equipment, fiberboard, and cars, trucks and parts relative to the amount actually owed. If you project this 2.1 percent figure across the board, how much money is the Federal Government losing in tariffs owed and not paid? The 2.1 percent shortfall was based on the compliance with "importation and documentary" processing. Could you explain this and how it compares to an overall compliance measurement? For example, was the test conducted with enough data to cover most

ports of entry? What, if any, physical inspections were conducted as part of the test?

Answer. The 2.1 percent figure for a projected revenue loss garnered from several short-term tests on industries should not be projected across the full spectrum of importations. In a communication dated March 31, 1994, the full report on FY 1993 compliance measurements was sent to your office for review. The report delineates the methodology and rationale for the tests as well as providing a detailed listing of the results.

As articulated in the report, the tests were conducted within specific industries at specific ports of entry. The measurement provided significant indices of a potential revenue loss projection within the sub-industries tested. The measurement included the "up front processing," the physical inspection of cargo and the review of Entry Summary documentation. It did not include follow-on activities, such as detailed audits and enforcement investigations, which impact the ultimate levels of revenue collection. The February 16 communication provided the 2.1 percent revenue shortfall mainly as an indication of how the compliance measurement methodology can be utilized to provide statistically valid information on revenue. While the 2.1 percent figure is a statistically valid projection, a "snapshot," for the particular sub-industries, the resultant application of an across-the-board revenue loss, over \$350 million, cannot be made at this time. Customs is currently planning a comprehensive national test for FY 1995, which will provide a valid, across-the-board revenue projection. The planning is based on our experience from the FY 1993 tests and ongoing tests being conducted in FY 1994.

Question 6. When will Customs be able to prepare a financial statement on revenues that will be able to get a "clean opinion" from the auditors?

Answer. Customs is striving to receive a "clean opinion" from the auditors on all aspects of the FY 1995 financial statements. Again, Customs financial statements are prepared only after an extensive manual effort is completed. Customs automated systems and the data contained within them are not in a condition to permit the preparation of financial statements on an accrual basis of accounting. An extensive manual intervention is needed to review and analyze the systems data for validity and to obtain additional information maintained in manual files to ensure completeness. This need for manual effort identifies significant internal control and compliance weaknesses and increases the probability that errors can be made in the financial statement compilation process. Systems modification enhancements must be completed to eliminate the manual intervention. The financial statements will not win the approval of the auditors until the systems enhancements are completed and the level of control and compliance weaknesses reduced. The earliest possible implementation of all system enhancements

needed to totally eliminate the control and compliance weaknesses is FY 1997. Customs believes sufficient system enhancements can be completed by FY 1995 that will diminish the manual effort to a point acceptable to the auditors.

Question 7. Could you give an estimate of when corrective steps will be in place to improve the operation of the drawback program? I am specifically interested in knowing when you expect to have an automated method of entering information to verify drawback claims so that drawbacks can be verified.

Answer. The automation of drawback is a very complicated process and one that requires the involvement of the trade community. We estimate that to have an automated method of decrementing import entries will take approximately two years.

Question 8. According to your testimony, efforts to improve the drawback program have a high priority. If so, why did GAO conclude that Customs has not put a high priority on this change?

Answer. Customs has been giving the entire drawback program high priority. We have established positions at Headquarters devoted exclusively to drawback, issued several national directives, conducted numerous outreach programs and, recently, allocated 11 new positions to the drawback field offices. The automation of drawback has also been on the high-priority list. However, during the past year we have directed our limited ADP development and programming resources to the Future Automated Commercial Environment Team (FACET) program, which will impact all areas of Customs. The FACET work is now completed and the staff involved have returned to their regular assignment. I am informed that the drawback staff has begun to schedule meetings to continue the development of the automated drawback system.

Question 9. You indicate in your letter of February 14, 1994, that the revenue losses due to importers improperly receiving drawbacks cannot be estimated and that, as an interim step, you will institute more stringent review and verification procedures for drawback requests. Please describe these steps and tell us when they will be in place. Will you follow GAO's recommendations in their March 7, 1994, report which calls for representative sampling procedures for reviewing drawbacks, improved data base on things like excessive claims made in the past, and better tracking of bonds posted for drawback transactions?

Answer. As you know, an integral part of the Customs Modernization Act is the Drawback Compliance Program. The requirements for this program are set out in the law. To summarize: in order to be in the Compliance Program, a company must demonstrate to Customs the sufficiency of their knowledge, procedures, records and personnel. We are moving to implement this program as quickly as possible. In addition, we are discussing with the trade community numerous changes in the



Customs Regulations, such as requiring all claimants to file claims based on duties deposited at the time of importation, establishing a nexus between where drawback claims are filed and the claimant, requiring claimants to be identified as the filer, and requiring a separate bond for drawback claims, to name a few.

In addition, when the new positions are allocated to the field drawback offices, those regions which allow same condition (now "unused drawback") drawback claims to be liquidated at the district level will move that responsibility to the regional drawback office to ensure a high level of expertise and uniformity in processing the claims. Finally, we do intend to follow GAO's recommendations to improve the drawback program.

Question 10a. Could you give us an idea of the type of changes you have instituted to safeguard seized property, especially weapons and narcotics?

Answer. The Customs Service instituted many changes concerning the safeguarding of seized property. Currently the Customs Service has 105 Seized Property Custodians whose primary duties are in the storage, security, and disposition of seized property. In addition to the Seized Property Custodians, the Customs Service has implemented new minimum security standards. All Customs Districts are being reviewed by the Customs Service Office of Internal Affairs, Office of Physical Security, to determine whether Customs storage facilities meet the new Security Standard.

Of 101 storage facilities reviewed, 21 were identified as not meeting the standard. All 21 facilities have now been equipped with standardized and uniform equipment which meet Customs Security Standards. This equipment consists of alarm systems which take advantage of electronic technology that is now available. The use of motion and heat detection devices are now used. The Office of Internal Affairs is continuing to review other areas. As these areas are identified, all security upgrades will be implemented. On February 15, 1994, Customs conducted a 100 percent inventory of all seized property. Customs intends to conduct inventories on a monthly basis instead of just once a year. Other changes being instituted, are the constant reviews of Customs Directives and procedures and any requisite updates.

Question 10b. How will oversight inspections of these facilities be conducted and when will a report of the findings be available?

Answer. Oversight inspections of these facilities are currently conducted by Customs personnel of the Seized Property Division. Oversight inspections are conducted on a periodic basis, with emphasis on security, tracking of seizures, timely deposits of seized currency, and compliance with disposition instructions in the destruction of narcotics. The Customs

Service Office of Organizational Effectiveness also conducts independent audits of the various functions of the Seized Property Program. Customs also contracts with a private accounting firm to conduct an independent audit of the Seized Property Program. As stated above, the Customs Service has just completed a 100 percent inventory of all seized property. This report will be available once the General Accounting Organization has completed their review of the inventory results.

Question 11. I am concerned with the very large disparity between the initial penalties and fines that Customs assesses and the amount eventually collected (\$7.9 billion v. \$87 million). Your recent correspondence on this issue indicates that you are studying a more rational system. Could you explain this to us and tell us when you expect to make changes?

Answer. As you know, Customs shares your concerns regarding the apparent disparity between assessed and collected penalties. Customs notes that this disparity ordinarily arises due to the large assessed penalty required or called for under the particular penalty statute versus the lower mitigated amount permitted under Customs guidelines for such penalties. In other words, Customs usually assesses the penalty in accordance with the statutory maximum to protect the Government's case should the violator fail to comply with the Agency decision.

By doing this, Customs, preserves the Justice Department's right to sue for the statutory maximum in the event of such non-compliance with the Agency decision. In this regard, Customs has taken steps to correct this problem by initiating changes to its guidelines/instructions to field offices regarding penalty assessments and dispositions. First, Customs has just published its new guidelines relating to bond violations. It is clear that these guidelines will result in significantly more realistic penalty assessments and collections in the area of liquidated damages. Second, Customs has undertaken a complete revision of its penalty guidelines involving alleged violations of 19 U.S.C. 1592 which, if adopted, also will permit significant correction of disparities between assessed and collected penalties involving commercial fraud violations. It is expected that these proposed new Section 1592 guidelines will be published for public comment in the Federal Register in early June.

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